STATE OF MINNESOTA DISTRICT COURT

COUNTY OF RAMSEY SECOND JUDICIAL DISTRICT

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The State of Minnesota,
by Hubert H. Humphrey, III,
its attorney general,
and
Blue Cross and Blue Shield
of Minnesota,

Plaintiffs,

vs. File No. C1-94-8565

Philip Morris Incorporated, R.J.
Reynolds Tobacco Company, Brown
& Williamson Tobacco Corporation,
B.A.T. Industries P.L.C., Lorillard
Tobacco Company, The American
Tobacco Company, Liggett Group, Inc.,
The Council for Tobacco Research-U.S.A.,
Inc., and The Tobacco Institute, Inc.,

Defendants.

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DEPOSITION OF MARTIN F. BROUGHTON

Volume I, Pages 1 - 246

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(The following is the deposition of MARTIN F. BROUGHTON, taken pursuant to Notice of Taking Deposition, at the offices of Lovell White Durrant, 65 Holborn Viaduct, London, England, commencing at approximately 8:50 o'clock a.m., July 23, 1997.)

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Judge Fitzpatrick (via teleconference)

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I N D E X

EXHIBITS		DESCRIPTION	PAGE MARKED
Plfs' Ex	491	"CAC COMPANIES - AUSTRALIA/ CANADA/U.S.A./GERMANY/BRAZIL," Bates 103282402-3	46
	492	"BIOLOGICAL RESEARCH IN GR & DC," Bates 100986797-801	67
	493	Letter dated September 6, 1979, Hacking to Oppenheim, Bates 660915916-21	73
	494	"ANNOUNCEMENT OF GROUP STRUCTURE" dated 20th January, 1981, Bates 10746910-2	87
	495	"Tobacco: Strategy Review Team," Bates 201831134-5	104
	496	"BATCo RE-ORGANIZATION," Bates 109070965-71	120
	497	Letter dated 5th July, 1985, Heard to "Dear (NAME)," Bates 109887335-6	128
	498	Memo dated 3rd May, 1974, McCormick To all Members of the Conference, Bates 100428581-99	147

http://legacy.library.ucsf.edu/tid/mxn35a00/pdf
Source: http://www.tobaccoindustrydocuments.ucsf.edu/docs/qpxd0001

499	"SMOKING AND HEALTH," Bates 301058856-74	149
500	Newspaper excerpt dated 10/31/96, no Bates number	181
501	Memo dated 17.5.76, Green to Sheehy and Short, Bates 110076427-32	199
502	"APPRECIATION," Bates 109881322-35	204
503	"LEGAL CONSIDERTIONS IN SMOKING AND HEALTH ISSUES," Bates 107620266	219
504	"SMOKING AND HEALTH: THE BACKGROUND AND CLIMATE," Bates 107319216-8	227

http://legacy.library.ucsf.edu/tid/mxn35a00/pdf
Source: https://www.industrydocuments.ucsf.edu/docs/qpxd0001

P R O C E E D I N G S

(Witness sworn.)

MARTIN F. BROUGHTON

called as a witness, being first duly sworn, was examined and testified as follows:

ADVERSE EXAMINATION

BY MS. WIVELL:

Q. Good morning, sir.

A. Good morning.

Q. Could you tell the ladies and gentlemen of the jury your name.

A. Martin Broughton.

Q. All right. Sir, you are the chief executive officer of BAT Industries P.L.C.; aren't you?

A. Correct. B.A.T Industries.

Q. B.A.T Industries.

Are there any other positions you hold within the BAT Group of companies?

A. There are. I'm also managing director of the financial services interests of the group. We have interests basically in tobacco and financial services and a group of companies that are involved in financial services; I carry the title of managing director of that group as well.

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Q. Are there any other titles you have within the BAT Group of companies?

A. Deputy chairman of B.A.T Industries --

Q. All right.

A. -- p.L.C..

MR. CORRIGAN: Excuse me, Ms. Wivell. Just for purposes of pronunciation, I think the correct identification is B.A.T. Group rather than BAT Group.

MS. WIVELL: Fine.

MR. CORRIGAN: Thank you.

MS. WIVELL: I'll try and do that.

Q. Are there any other positions you hold within the B.A.T. Group?

A. I'm sure there are, because one is a director of a number of sub investment companies, holding companies. But those are the key positions that I hold.

Q. Have you ever had your deposition taken before, sir?

A. Yes, I have.

Q. In a smoking-and-health-related cases?

A. No.

Q. What kind of a case?

A. In connection with the acquisition of Farmers

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Group, the insurance -- the California-based insurance group.

Q. Would it be fair to say that since 1971, cigarettes have helped pay your salary?

A. It would be fair to say cigarettes have helped to pay my salary, is that the question?

Q. Yes, sir.

A. Cigarettes have certainly been one of the products that the group has sold in various parts of the group, and I've worked in those groups, so in that sense, yes.

Q. For the past 26 years you've been continuously employed by either British-American Tobacco Company, B.A.T Industries P.L.C., or a subsidiary corporation of one or the other; correct?

MR. CORRIGAN: Object to the form of the question, compound.

You may answer if you can understand the question.

A. Could -- could you just play back that?

Q. Certainly. Well let me see if I can say it a little bit differently.

For 26 years you have been continuously employed by a company related to the BAT Group; right?

A. For the --

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For the last 26 years I have been continuously employed by one or other company within the BAT Group of companies, yes.

Q. All right. Would you explain to the ladies and gentlemen of the jury what you do as chief executive officer of BAT Industries P.L.C.?

MR. CORRIGAN: It's B.A.T. Industries.

MS. WIVELL: All right. Let me rephrase the question.

Q. Could you explain to the ladies and gentlemen of the jury what you do as chief executive officer of B.A.T. Industries?

A. Yes. I'll try and start with a brief answer, and then, if you want to explore it more, we can go into as much detail as you like.

Fundamentally, B.A.T. Industries is a holding company, so my role as chief executive is that of chief executive of a holding company, group of companies, so my responsibilities range from ensuring that shareholders' interests are properly looked after, that the interests of other interested parties -- employees, consumers -- are considered in making decisions, that policies are in place around the group to ensure the business is run in a -- businesses within the group are run in an appropriate

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fashion, and to ensure the board of B.A.T. Industries P.L.C. is properly informed of the various matters that it is responsible for. And so it's a range of responsibilities that basically attend to the kind of issues of a holding company.

Q. Now you also mentioned -- I'm sorry. Were you done?

A. Yes, ma'am.

Q. You also mentioned that you were deputy chairman of the board of directors of B.A.T. Industries; correct?

A. Correct.

Q. All right. What do your job duties entail as deputy director of the board of directors of --

A. Deputy chairman.

Q. Deputy chairman, I'm sorry.

A. There are very few additional responsibilities as deputy chairman. Effectively, the most important additional responsibility is, in the absence of a chairman, then I would act as the chairman of the board.

Q. Who is the chairman of the board?

A. Lord Cairns.

MR. CORRIGAN: C-a-i-r-n-s.

Q. And excuse --

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Source: http://www.industrydocuments.ucsf.edu/docs/qpxd0001

Sir, I want to tell you, I have a bit of a hearing problem --

A. I beg your pardon.

Q. -- and from time to time I may ask you to repeat something just because I didn't hear it, and I apologize in advance for that.

A. No. I will try and speak up.

Q. Thank you.

Now would you explain to the ladies and gentlemen, who are sitting on the jury in Minnesota, is there something about B.A.T. -- let me strike that. Let me begin again.

Would you explain to the ladies and gentlemen who are sitting on the jury in this case something about B.A.T. Industries, since, perhaps, they've never heard of that company. Would you explain what it is.

A. B.A.T. Industries is a U.K.-based company. It is about the 10th, maybe 12th largest corporation based in the U.K. by market capitalization; that is, the stock-market value of the company. It's a group of companies which is -- B.A.T. Industries itself is a -- is a holding company of a group of companies which operate in different businesses. Today, those businesses are principally in the tobacco and

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insurance and financial services businesses, but over the years we have been involved in a number of other businesses, including paper, retailing, cosmetics, packaging, and various other things. So it's -- it's over the years been what you might call a conglomerate, with interests in various activities, which has today been reduced to fundamentally the two business areas of activity, tobacco and financial services.

Q. Among the world companies, how would it rate in size?

MR. CORRIGAN: Well let me object to the form. I'm assuming you're asking on the basis of market capitalization, as the witness indicated.

MS. WIVELL: Yes.

A. I'm not sure quite where it is. It would be probably in the top hundred.

Q. Among tobacco companies worldwide where does B.A.T. Industries rate market share?

MR. CORRIGAN: Object to the form of the question. No basis for suggesting that B.A.T. Industries is a tobacco company. It's a holding company that holds tobacco.

MS. WIVELL: Excuse me, I think you're violating the court order, and I object.

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A. Sorry. Could you play that back?
Q. Certainly.
Among tobacco businesses worldwide, where does B.A.T. Industries rate market-share wise?
MR. CORRIGAN: Same objection. If you still have the question in mind, you may answer it.
THE WITNESS: Okay.
MR. CORRIGAN: I just want to make sure my objection is on the record.
A. There are a number of large tobacco groups in the world. Most of them are owned by conglomerates like B.A.T. Industries; not all of them. The largest tobacco business in the world is CNTC, which is the Chinese National Tobacco Corporation; that is, I'm told they're the largest in terms of volume of cigarettes sold. It doesn't have a market capitalization, obviously, because it's not a public company.
Of the other companies, the quoted companies, I think the largest one -- or the largest one by market capitalization as -- as a conglomerate would be the Philip Morris Group. As other conglomerates interested in tobacco, amongst other things, I'm not sure whether we would be second or whether the Japanese Tobacco, Inc. would be the second in terms

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of market capitalization. And then there are various others who are interested in tobaccos, amongst other interests.

Q. You used in your answer the phrase "quoted." Would you explain to the ladies and gentlemen what you mean?

A. Yeah. By "quoted" I meant a company whose shares are held by the general public and quoted on a stock exchange somewhere around the world.

Q. What was B.A.T. Industries' operating income last year?

A. "Operating income" is a term we don't use at B.A.T. Industries.

Q. All right. How do you describe your income last year?

A. We describe the total gross turnover as -- sometimes as "turnover," sometimes as "gross revenue." That would be the -- the top-line income.

I don't actually remember what the figure is, but something like 25 billion pounds, I think.

Q. You --

A. I think it's 25 billion pounds.

Q. Billion with a b.

A. Billion with a be. But I can't remember precisely what it was.

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Q. But that is your best estimate as you sit here today?

A. That was --

That is a consolidation of insurance premiums and gross receipts from tobacco businesses and turnover from any of the other smaller businesses we still own.

Q. What is your best estimate of your gross receipts from the tobacco business?

A. I don't have any particular figure in mind, the group total income, total turnover from all of the tobacco companies. I -- I'd rather not give you an inaccurate answer. I -- I don't have one in mind particularly.

Q. All right. Of that figure you gave us earlier, the 25 billion pounds, approximately what would that be in American dollars?

A. Approximately 40 billion dollars.

Q. Can you give me an estimate, of that figure, approximately what percent was attributable to tobacco?

A. Well like I was saying before, I don't have a specific answer. It's roughly in the percentage of 60 percent tobacco, 55, 60 percent tobacco.

Q. And the rest being --

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A. And 45, 40 percent -- or 40, 45 percent insurance premiums. It would be roughly that sort of figure.

Q. Now the group of companies which B.A.T Industries owns is sometimes called the B.A.T Industries Group; isn't it?

A. No, it's not normally called -- very rarely called the B.A.T Industries Group. It is -- it is sometimes referred to as the B.A.T. Group.

Q. All right. And as a matter of fact, when B.A.T. Industries was formed in 1976, there was a release sent out saying that BAT Group would continue to be used as a proper reference to the group of companies comprising B.A.T Industries and its subsidiary and associated companies; correct?

A. I say, B.A.T. Industries was not formed in 1976, so I --

I lost the rest of the question --

Q. All right.

A. -- after you got to that because of that part.

Q. All right. Well let me ask you this: When was B.A.T. Industries P.L.C. formed?

A. B.A.T. Industries, the corporation, I think, was formed in 1928 under the name Tobacco Securities Trust, and it changed its name to B.A.T. Industries

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Source: http://www.industrydocuments.ucsf.edu/docs/qpxd0001

in about 1976.

Q. All right. Let me restate my question then.

At the time that the Tobacco Securities Trust changed its name to B.A.T. Industries in approximately 1976, isn't it true that a release was sent out saying that "the BAT Group," the phrase "the BAT Group" would continue be to be used as the proper reference to the group of companies comprising B.A.T Industries and its subsidiary and associated corporations?

A. I don't remember a particular release like that, but could well have been.

MS. WIVELL: Mr. Stirewalt, could you get out Exhibit 285, please.

(Exhibit 285 was handed to the witness.)

BY MS. WIVELL:

Q. Sir, showing you --

MR. CORRIGAN: Wait, wait, wait, wait. Why isn't there a copy for the other people here?

MS. WIVELL: Excuse me?

MR. CORRIGAN: Why isn't there a copy for the other people here?

MS. WIVELL: Because I have traditionally provided a copy to the witness, a copy to you, and a copy to -- for me, and no one's ever said anything.

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Source: http://www.industrydocuments.ucsf.edu/docs/qpxd0001

MR. CORRIGAN: Well I -- I thought I understood that -- that there would be four copies, one for you, one for the witness, one for me, and one for the other people.

MS. WIVELL: Well --

MR. CORRIGAN: We'll work --

It's not a problem, but I thought that's what the agreement with counsel was.

MS. WIVELL: Well I'm sorry. I have taken a number of depositions and only been bringing three, so I'm sorry.

MR. CORRIGAN: That's all right. That's -- that's okay.

BY MS. WIVELL:

Q. Sir, showing you what has previously been marked as Exhibit 285, this is on B.A.T Industries Limited stationery; correct?

A. Correct.

Q. And it's dated July 23rd, 1976, and concerns the formation of B.A.T Industries Limited; right?

A. Correct. Correct.

Q. All right. Now it refers to the arrangement under which British-American Tobacco Company Limited and the Tobacco Securities Trust were merged and B.A.T Industries was formed; correct? I'm sorry,

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Source: http://www.industrydocuments.ucsf.edu/docs/qpxd0001

B.A.T Industries was formed; correct?

MR. CORRIGAN: Could you identify the page that you're speaking from, please?

MS. WIVELL: The first page, sir.

MR. CORRIGAN: All right. Thank you.

A. Yeah. It explains how the two, British-American Tobacco Company and Tobacco Securities Trust, came together, the Tobacco Securities Trust becomes the parent company, and -- and renamed B.A.T Industries.

Q. Now sir, that's the -- the event that you referred to as taking place in approximately 1976 which resulted in the formation of B.A.T Industries; correct?

A. Would you --

MR. CORRIGAN: Object to the form of the question, but you may answer. It wasn't the formation as the witness indicated before, it was the renaming.

MS. WIVELL: All right. Let me rephrase the question.

Q. Now sir, that's the event that you referred to as taking place in approximately 1976 which resulted in the renaming of B.A.T Industries; correct?

A. Correct.

Q. All right. If you turn to the second page, do

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you see a reference there in the fourth paragraph to "'B.A.T. Group' will continue to be used as the proper reference to the group of companies comprising B.A.T Industries and its subsidiary and associated companies;" right?

A. Correct.

Q. Now sir, would it be fair to say that if the ladies and gentlemen of the jury saw references after 1976 in various documents that were produced by B.A.T Industries, BATCO or BATUKE, that they could assume that the BAT Group is what's referred to here?

MR. CORRIGAN: Object to the form. You may answer.

A. Sorry. Could you just play that back? I missed --

Q. All right. I'm going to rephrase the question to try and meet --

A. Okay.

Q. -- defense counsel's objection.

Would it be fair to say if the ladies and gentlemen of the jury saw a reference after -- after this date, 1976, in various documents produced by B.A.T Industries that -- to BAT Group, it would refer to the companies that are mentioned here in this release, Exhibit 285?

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MR. CORRIGAN: Object to the form.

A. Yeah, it is -- it is fair for the members of the jury to take the term "B.A.T. Group" to refer to both B.A.T Industries P.L.C. itself, and all of the various subsidiaries and associated companies, whether they be in tobacco or financial services or paper or retail or whatever. B.A.T. Group would be the -- the generic term that would be used for comprising all of the companies collectively.

Q. BATCO would be part of that group; right?

A. BATCO would be one of the companies in that group, correct.

Q. BATUKE would be another of the companies within that group?

A. BATUKE would be another of the companies within that group.

Q. Brown & Williamson is another of the companies within that group?

A. Brown & Williamson would be another of the companies within that group.

Q. All right. And just so we're clear, Brown & Williamson is a wholly-owned subsidiary of B.A.T Industries -- B.A.T Industries P.L.C.; correct?

MR. CORRIGAN: Object to the form of the question insofar as it presupposes no intermediate

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companies. But you may answer.
A. Brown & Williamson, as with most of the other companies that you've mentioned, would be wholly-owned subsidiaries. Normally, I think each of them actually indirect subsidiaries; that is, there would be intermediate holding companies for at least some of them if not all of them. So -- but --
But the essence of your point is that B.A.T Industries ultimately is the shareholder, owning a hundred percent of the shares through other intermediate holding companies, of Brown & Williamson would be correct.
Q. Well right now is there any other company, as we sit here today, that is owners of Brown & Williamson shares?
MR. CORRIGAN: Object to the form of the question.
A. Yes.
Q. Which company?
A. I couldn't tell you actually the -- the chain, but there are -- I think it's --
No, I couldn't tell you the name of the company, because there are a number of companies within the chain of companies. So there is a -- a holding company that owns Brown & Williamson, I think there

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Source: http://www.industrydocuments.ucsf.edu/docs/qpxd0001

are several other companies within that chain before it comes to B.A.T Industries. But that's a -- a matter of history more than anything else.

Q. But it would be fair to say, so the ladies and gentlemen of the jury can have it clear in their mind, that the ultimate owner of all of the companies in the chain of command is B.A.T Industries P.L.C.

A. Is B.A.T., yes.

MR. BEZANSON: Object to the form.

MS. WIVELL: Let me rephrase -- let me restate the question.

Q. It would be fair to say, so the ladies and gentlemen of the jury can have it clear in their mind, that the ultimate owner of all of the companies in the chain of command between B.A.T Industries and B&W is B.A.T Industries; right?

MR. CORRIGAN: Object to the form only by use of the phrase "chain of command." Other than that, I have no objection.

A. Other than that, correct.

Q. Now sir, B.A.T Industries Limited is headquartered in London; right?

A. B.A.T Industries P.L.C. is in London, yeah.

Q. All right.

A. Of course.

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Source: http://www.industrydocuments.ucsf.edu/docs/qpxd0001

Q. And its headquarters are at Windsor House.
A. Windsor House, correct.
Q. If the ladies and gentlemen of the jury see documents with the Windsor House address on the letterhead, would it be fair for them to assume those documents originated with B.A.T Industries?
MR. CORRIGAN: Object to the form.
A. Not necessarily, because Westminster House is a property which has about 17 floors. We don't own the whole -- we don't own any of the property, we only rent part of the property. So there could be all sorts of other documents coming with Westminster House which have absolutely nothing to do with B.A.T Industries.
MR. CORRIGAN: You used the phrase "Westminster." The question was "Windsor House."
THE WITNESS: Windsor. I beg your pardon.
Q. All right. Let me go back because I caught that, too. Let me ask it again.
Sir, if the ladies and gentlemen of the jury saw documents with the Windsor House address on them, would it be fair for them to assume that the documents originated with B.A.T Industries?
A. No.
MR. CORRIGAN: Same objection. Go ahead.

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THE WITNESS: Sorry.

A. Let me -- let me give the same answer, but using correctly now the term "Windsor House."

The Windsor House is a London property which has some 17 floors. We rent just seven of those floors or eight of those floors. The other floors are rented by various other corporations which have nothing to do with B.A.T Industries P.L.C. So there could be all sorts of other businesses with addresses with Windsor House on them that have absolutely nothing to do with B.A.T. whatsoever.

Q. Fair enough.

Let me restate the question this way: If we see documents in the files from one of the other BAT Group companies that have Windsor House on them, would it be fair to say that they came from B.A.T Industries?

MR. CORRIGAN: Object to the form of the question, asks the witness to speculate.

THE WITNESS: What does that mean?

MR. CORRIGAN: You should answer the question.

MS. WIVELL: You should answer.

THE WITNESS: I have to think.

A. I think it -- it would be wrong to say that with

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certainty.

Q. Okay. Would it be fair to say that B.A.T Industries manufacture and sell tobacco products all over the world?

A. Certainly, subsidiaries of -- of B.A.T. Group manufacture in a large number of companies -- countries and sell cigarettes in an even greater number of countries, which is most parts of the world.

Q. Approximately how many countries do B.A.T. Group companies either sell or manufacture cigarettes in?

A. B.A.T. Group subsidiaries would sell in a hundred -- something over a hundred countries around the world.

Q. How about manufacture cigarettes, are there additional countries throughout the world that B.A.T. Group companies manufacture cigarettes in?

A. Yeah. B.A.T. Group companies would manufacture in something like 50 countries around the world.

Q. Now sir, we're taking this deposition in London here today; aren't we?

A. Correct.

Q. Does B.A.T Industries sell cigarettes in the United Kingdom?

A. B.A. --

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Source: https://www.industrydocuments.ucsf.edu/docs/qpxd0001

MR. CORRIGAN: Object to the form of the question. Go ahead.

A. No, B.A.T Industries doesn't sell cigarettes anywhere.

Q. Now B.A.T Industries owns companies that manufacture cigarettes in the United Kingdom; correct?

A. Correct.

Q. Which company manufactures cigarettes in the United Kingdom?

A. I think the subsidiary that manufactures cigarettes in the United Kingdom still goes under the name B.A.T(U.K and Export) Limited. Might have changed its name, but I think that is the name who operates them.

Q. That company is a defendant in this case; right?

A. I'm not sure.

Q. Now they have a factory in Southampton?

A. That company has a factory in Southampton, yes.

Q. And until last year they manufactured about 11 billion cigarettes a year; didn't they?

A. No.

Q. No? More?

A. More.

Q. More.

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And that's because they put in high-speed manufacturing processes recently; didn't they?

A. Well B.A.T(U.K. and E), which is the name of that company or shorthand version of the name of that company, has invested over the years a lot in the Southampton factory in high-speed equipment and all sorts of other equipment as well, and has steadily increased its manufacturing capacity as a result, correct.

Q. Approximately how many cigarettes are they able to manufacture a year?

A. Currently B.A.T(U.K. and E) Southampton factory with manufacture somewhat -- something over 40 billion cigarettes per year.

Q. Billion with a b; right?

A. Billion with a b.

Q. Now B.A.T Industries is present in the North American market through the presence of Brown & Williamson; correct?

MR. CORRIGAN: Object to the form, but you may answer.

A. No. I don't think B.A.T Industries is present in the United States.

Q. Well is BATCO present in the United States --

MR. CORRIGAN: Object to --

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Q. -- through its subsidiary company Brown & Williamson?

MR. CORRIGAN: Object to the form of the question. Object to the assumption that Brown & Williamson is a -- is a subsidiary of BATCO.

A. No.

MS. WIVELL: Mr. Stirewalt, could you get out Exhibit 281, please.

(Exhibit 281 handed to the witness.)

BY MS. WIVELL:

Q. Sir, showing you what's been marked as Exhibit 281, you've seen this document before; haven't you?

A. I would have seen this document some 20 years ago, yes.

Q. And this document sets forth the scheme under which British-American Tobacco Company Limited and the Tobacco Securities Trust Company Limited were merged and which resulted in B.A.T Industries P.L.C.; correct?

MR. CORRIGAN: Object to the form, but if you do want him to take the time to read it, we can do that.

A. It is a very long document. Just glancing at the document at this stage, which I'm perfectly happy to read if you'd like me to, it appears to be three

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different documents.
Q. Sir, were you shown this document in preparation for your deposition today?
A. No, I was not.
Q. All right. You weren't. Okay.
Well, sir, are you aware of the fact that this document concerns the merger of British-American Tobacco Company Limited and Tobacco Securities Trust Company Limited?
MR. CORRIGAN: Object to the form of the question. Again, if you need to read the document before answering, you should do so.
A. I'll just take a little time out to read --
Q. All right. Why don't I direct your attention to page 384 under where it says "Dear Stockholder," near the top of the page.
A. Yes.
Q. Do you see where it says "MERGER OF BRITISH-AMERICAN TOBACCO COMPANY LIMITED, quote, BAT, quote, paren, WITH TOBACCO SECURITIES TRUST COMPANY LIMITED, quote, TST, quote, paren?"
A. Yes.
Q. All right. And do you understand essentially that that's what this document is about?
MR. CORRIGAN: Object to the form of the

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question.
A. That is --
MR. CORRIGAN: Are you asking about this -- "this document" being this particular document within the group of the documents, or the whole stack? That's my objection.
THE WITNESS: Sorry.
MR. CORRIGAN: She's chosen not to rephrase the question, so you'll have to answer as best you can.
A. Sorry, could you --
Q. Certainly.
Do you understand essentially that's what this document is about, the merger of British-American Tobacco Company with the Tobacco Securities Trust?
A. I understand that the -- the first two pages, which is this particular document you're referring to from the -- from the title of the document, is -- is about that. But --
Q. All right.
A. -- as I said, I'm quite happy to read the whole document if you'd like.
Q. All right. Could you turn to page 14.
By the way, sir, did you understand that I had to designate documents that I intended to use in this

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deposition so I could -- counsel would have them so that they could prepare with you today?

MR. CORRIGAN: Object to the form --

Q. Did you understand that?

MR. CORRIGAN: -- of the question.

A. Did I understand -- I --

Did I understand what?

Q. Did you understand that I had to designate documents several days ago that I intended to use at this deposition and tell counsel which documents I intended to use so that they could help you prepare for your deposition?

MR. CORRIGAN: I object to the form of the question, the last clause.

A. I understood that you designated documents which you may use during this deposition. I understand that there were several designations of documents at different times, and --

Yeah.

Q. Did you ask to see any of those documents that I designated?

MR. CORRIGAN: Object, direct the witness not to answer.

MS. WIVELL: On what grounds?

MR. CORRIGAN: Privilege.

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MS. WIVELL: Whether he asked to see any of the documents is privileged?

MR. CORRIGAN: Object, direct the witness not to answer.

BY MS. WIVELL:

Q. Sir, on page 14 there is a "History and Business of BAT" section of Exhibit 281; right?

A. Correct.

Q. And it talks about B.A.T. being incorporated in 1902; right?

A. Would you mind if I read that section?

MR. CORRIGAN: Yes, go ahead and read it.

Q. I'm going to direct you to the first paragraph of that section and then also the last paragraph on page 15.

A. Okay. Do you mind if I read the whole of the section?

MS. WIVELL: Fine. We can go off the record then.

THE REPORTER: Off the record, please.

(Discussion off the record.)

BY MS. WIVELL:

Q. You had the opportunity to read the portion of this document, Exhibit 281, that concerns the "History and Business of BAT;" right?

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A. Correct.
Q. All right. And it says here that B.A.T. was incorporated in 1902; right?
A. Correct.
Q. Is that consistent with your memory of the history of British-American Tobacco Company Limited?
A. Yes. I think this -- the use of the term "BAT" here is precisely what you just said; British-American Tobacco Company is -- is the company it's referring to, which was incorporated in 1902.
Q. And if you go on to page 15, there at the bottom of the page it talks about Brown & Williamson; doesn't it?
A. Yes, it does.
Q. And it talks about being -- sorry. Strike that.
It talks about Brown & Williamson being a wholly-owned subsidiary; right?
A. But doesn't indicate the wholly-owned subsidiary of who.
Q. All right. Good question.
Who was it a wholly-owned subsidiary of at that time?
A. In 1976 it was a wholly-owned subsidiary, either directly or indirectly, I'm not sure, of British-American Tobacco.

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Q. All right.
A. BATCO.
Q. Now it says here, also, that the most important region for the division is North America, and the division being talked about is the tobacco division; right?
A. Yes. The term "division" here is used as a -- as a means of differentiating between the -- the group of companies in the tobacco business as against the group of companies in the retail business as against the group of companies in the paper business, so it's kind of a shorthand term for a group of companies. And it does say that the most important region for the division, i.e., the tobacco business, is North America.
Q. And that was true at the time; wasn't it?
A. That was true at the time in 1976.
Q. Now sir, B.A.T. is still present in the American market; isn't it?
MR. CORRIGAN: Object to the form.
MR. BEZANSON: Object to the form.
MR. CORRIGAN: You're saying B.A.T. Are you talking about BATCO, Ms. Wivell, as we just were, or are we talking about -- are you using B.A.T. to mean something other than BATCO?

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A. Could -- could you explain to me --
Q. Well is BATCO still present in the American market?
MR. CORRIGAN: Object to the form.
A. BATCO, as far as I'm aware, is not present and was not present in the United States.
Q. But through its American subsidiary, Brown & Williamson, B.A.T Industries is present in the American market; isn't it?
MR. CORRIGAN: Object to the form of the question. Same objection as previously stated when that question was asked earlier.
A. Seems to me that Brown & Williamson is present in the United States, it is a corporation fundamentally in the tobacco business, and it is a direct -- or is an indirect subsidiary of B.A.T Industries P.L.C., which I don't think is the same thing as you asked.
Q. Okay. Well if we go back to page 14 of Exhibit 281 --
By the way, this is a statement of explanation -- this -- this portion is a part of a statement of explanation to stockholders of both British-American Tobacco Company and stockholders of the Tobacco Securities Trust; right?

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MR. CORRIGAN: Object to the form of the question. The document speaks for itself. But you may answer.

A. It is an explanatory statement. This document is part of an explanatory statement.

Q. And the -- the --

Because of the various laws regarding mergers and acquisitions, the statements made in this document had to be accurate; correct?

MR. CORRIGAN: Object to the form of the question, no foundation. You have not asked this witness whether he had anything to do with the authorship of the document.

A. I -- I lose track of the question, I'm sorry.

Q. Well, this particular explanatory statement which was issued was a public statement; wasn't it?

MR. CORRIGAN: Object to the form of the question, no foundation.

A. This -- this statement, together with the two letters that accompany it, were, to the best of my knowledge, addressed to the shareholders of British-American Tobacco Company and Tobacco Securities Trust Company.

Q. And there were public shareholders of British-American Tobacco Company at the time; weren't

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there, sir?
A. Both of those companies had public shareholders.
Q. They were publicly traded here on the stock market of London; weren't they?
A. Both of those companies were publicly traded on the stock market in the U.K.
Q. Okay. And in 1976 they were traded.
A. In 1976, correct.
Q. And as a result of that, the statements made in this explanatory statement to those shareholders that was --
It was prepared in preparation for the merger of the two companies; wasn't it?
MR. CORRIGAN: Object to the form of the question.
A. It was prepared in connection with what was actually a takeover of British-American Tobacco Company Limited by Tobacco Securities Trust Company Limited.
Q. And the statements had to be accurate; didn't they, sir?
MR. CORRIGAN: Object, same basis as previously stated.
A. The contents of these statements would be verified by various parties who would be signatories

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to the statements.

Q. And who were the various parties that were signatories to the statements?

A. I'm going to have to go through and check those.

A. You can see on page 25 these -- the letter, which is the explanatory statement, is signed by Lazard Brothers and J. Henry Schroder Wagg & Co. Limited. There may be other statements here.

Q. And you understand that --

A. You can see -- sorry.

Q. I'm sorry.

MR. CORRIGAN: Wait a minute. Go ahead, please.

A. You can see on page 28 there is a statement signed by de Zoete & Bevan. You can see on page 34 there is a statement signed by Deloitte & Co. and another, again, signed by Lazard Brothers. Again, on page 39, by Deloitte & Co. and J. Henry Schroder Wagg again. Those are the various parties that are signatories to this statement who would be responsible for verifying the accuracy of the contents of the statements.

Q. And those statements would have been made on behalf of British-American Tobacco Company Limited and Tobacco Securities Trust; correct?

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MR. CORRIGAN: Objection.

A. No, I'm not sure they would be.

Q. Well they would have been verified with either one of those two entities; wouldn't they?

MR. CORRIGAN: Objection.

A. You asked whether they would be made on behalf of. I think the signatories would be verifying on their own behalf.

Q. But they would have verified the information contained in the explanatory statements with either British-American Tobacco Company or the Tobacco Securities Trust; correct?

MR. CORRIGAN: Objection, no foundation yet to establish whether this witness has personal knowledge.

A. This is a document that is some 20 years old now which I would have received as an employee of British-American Tobacco at that time. You understand I had no involvement in these documents. So I would just take these documents as being ones which were the appropriate documents to shareholders to enable shareholders to make up their minds on the proposal that was then being considered.

Q. And sir, as a shareholder, you expected the statements that were made in these documents to be

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accurate; correct?
A. I was not a shareholder.
MR. CORRIGAN: Object to form.
Q. I'm sorry. As an employee of BATCO, you would have expected these documents to be accurate; wouldn't you, sir?
MR. CORRIGAN: Same objection.
A. Yes.
Q. And sir, you have been in the -- over the years that you have been involved in various B.A.T. companies, been -- been involved in various mergers and acquisitions; haven't you, sir?
A. Over the years with various companies in BAT Group, I have been involved in a number of mergers and acquisitions, yes.
Q. And just so we're clear, you understand that the explanatory statements that are issued to shareholders at the time of proposed mergers and acquisitions, those explanatory statements must be accurate; correct?
MR. CORRIGAN: I object to the form of the question.
A. Yeah. There are rules relating to takeovers and acquisitions that lay down specifically what kind of statements must be issued to shareholders, and there

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are verification processes which are laid down by the takeover power. So there -- there is a standard set of rules which must be complied with in connection with any merger or acquisition under the U.K. takeover code.

Q. Sir, and you would expect as a business person, based on your vast experience in -- in the various BAT Group companies, that the rules were complied with in 1976 at the time of the reverse takeover of British-American Tobacco Company by the Tobacco Securities Trust; right?

MR. CORRIGAN: Objection.

A. I got lost again with the question. Sorry.

Q. Let me repeat it.

You would expect as a business person, based on your vast experience in the various BAT Group companies, that the rules were complied with in 1976 at the time of the reverse takeover of British-American Tobacco Company by the Tobacco Securities Trust; wouldn't you, sir?

MR. CORRIGAN: Objection.

A. Yes.

Q. Because if they didn't, lawsuits could arise based on misrepresentations to shareholders; right?

MR. CORRIGAN: Objection.

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MR. BEZANSON: Objection.

MR. CORRIGAN: Calls for speculation.

A. That wouldn't be the reason.

Q. All right. What would be the reason, sir?

A. Simply because the takeover power lays down the rules and regulations by which takeovers should be carried out. That is the framework that is a defined process. And I would expect corporations involved in mergers and acquisitions to adhere to the rules laid down by the takeover power.

Q. That's one of the reasons why there are verifications, so that -- because the people who make those verifications have verified that the statements in the document are true; right?

MR. CORRIGAN: Objection to form.

A. I think when people make verifications -- and it's exactly the same with, say, a normal set of financial reports which are produced every year to stockholders -- there is a process by which auditors in that case, or various other parties in connection with a takeover, will take action to verify, to the best of their knowledge within the normal -- normal processes, that the contents are accurate.

Q. Would you turn back to page 14 of Exhibit 281. In the second paragraph it refers -- it begins with

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the statement, "In 1911 American Brands was ordered by the United States Supreme Court to dispose of its majority share holding in BAT," correct?

A. That's what it says.

Q. All right. Now it goes on in that paragraph to say, quote, "Another result of the judgment was that BAT became free to sell tobacco products in the United States domestic market, which it entered in 1927 through its acquisition of Brown & Williamson Tobacco Corporation;" correct?

A. That is what it says.

Q. All right. And you understand that in 1927, B.A.T. entered the U.S. tobacco market domestically when it acquired Brown & Williamson; right?

MR. CORRIGAN: Object to form.

A. Well I think we have to go here to the definitions. Could you -- could you refer me to the page which refers to the definitions?

Q. My question is, sir: Did you understand that in 1927 -- no, strike that. Now, sir --

A. Could you --

Sorry. Could you not --

MR. CORRIGAN: That's all right. She's switching to another line of questions.

Q. Now B.A.T Industries has other subsidiary

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companies other than Brown & Williamson which are involved in cigarette manufacturing throughout the world; right?

A. Correct.

Q. Has a major company that is a subsidiary in Brazil; right?

A. B.A.T Industries has an indirect interest, yes, in a major corporation in Brazil.

Q. Called Souza Cruz.

A. Referred to as Souza Cruz. It has undergone various names during this time.

(Plaintiffs' Exhibit 491 was marked for identification.)

BY MS. WIVELL:

Q. Sir, showing you what's been marked as Plaintiffs' Exhibit 491, this is a document Bates numbered 103282402 as its beginning Bates number; right?

MR. CORRIGAN: She's --

A. Correct.

Q. All right. The title of the document is "CAC COMPANIES - AUSTRALIA/CANADA/U.S.A./GERMANY/BRAZIL." Correct?

A. Correct.

Q. Now what are the CAC companies?

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A. The CAC companies --

There was a period of time, and I couldn't give you with accuracy, precise accuracy on that period of time, but it was a period of time that ran maybe from the late '70s or the early -- I think from the late '70s through to the late '80s, around about a decade, where these companies were referred to as the CAC companies. The "CAC" meant the Chairman's Advisory -- I can't remember whether it was Council or Commitee or Conference or something like that. But it was a chairman's advisory -- it was a group of companies' representatives from various specific operating companies in the group that would get together to advise the chairman.

Q. The chairman of B.A.T Industries P.L.C.; correct?

A. In 1986 I think this was, yeah, the chairman of B.A.T Industries P.L.C.

Q. All right. And the five CAC companies are listed in Exhibit 491; right?

A. It's actually six companies.

MR. CORRIGAN: Six.

Q. I'm sorry. Let me rephrase the question.

The six CAC companies are listed in Exhibit 491; right?

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A. Correct.
Q. All right. And they include Brown & Williamson.
A. Correct.
Q. Wills in Australia.
A. Correct.
Q. IMASCO in Canada.
A. Correct.
Q. B.A.T. Cigaretten Fabriken in Germany.
A. Correct.
Q. And the Brazilian Souza Cruz operation; right?
MR. CORRIGAN: You've left one out.
A. Correct.
Q. And B.A.T. U.S.; correct?
A. BATUS.
Q. BATUS. I'm sorry.
What was BATUS?
A. BATUS was a U.S. corporation which was a holding company, which was a holding company of all of the U.S. operating subsidiaries, so it had shareholdings in --
It was either directly or indirectly the shareholder in Brown & Williamson, but it was also the shareholder in the paper group of companies, in the retailing group of companies, in all of the various businesses that were part of the B.A.T. Group

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which were based in the United States.

Q. Was BATCO a CAC company after 1976?

A. No.

Q. Now --

A. I'm not sure after 1976, sorry. I couldn't really be sure about that. As of September '86, which was this document, it is not listed as a company. I couldn't tell you for sure whether other companies were or were not part of this because I was never a member of -- correction -- until 1988 I never attended a meeting of the CAC companies.

Q. And then in 1988 did you attend?

A. I did.

Q. As chair?

A. No.

Q. In what capacity?

A. As --

In the capacity of finance director designate of B.A.T Industries P.L.C.

Q. All right. Just so we're clear, when the chair called together the CAC companies -- let -- let me strike that.

The chairman of B.A.T Industries would call meetings of the CAC; right?

A. I think that's probably a fair reflection.

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Q. And when he called those meetings, the people that came to them were referred to as the number ones of the various CAC companies; weren't they?

A. I think it -- it is fair to say that the term "number one" is a -- a term in fairly common usage within the B.A.T. Group. It does imply -- it does apply normally to the senior-most executive in the corporation. It may not, in fact, be the senior-most person in the organization, but the senior-most executive of the corporation.

Q. The top guy; right?

A. No, not necessarily the top guy.

Q. Okay.

A. Because there may be a chairman, for example, who is the top guy, but is not an executive chairman.

Q. So it would be --

A. Therefore, it would be the senior-most executive person.

Q. The chief executive officer.

A. The chief executive officer would be the equal phrase.

Q. All right. By the way, before we leave this document, it says the -- next to the name of the company there are five columns; right?

A. Correct.

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Q. The first one is "T. & A. Fees;" right?
A. Correct.
Q. What are T. & A. fees?
A. T. & A. fees within B.A.T. Group refer to the phrase technical and advisory fees.
Q. What -- what are they?
A. They are fees charged for technical advice.
Q. Charged by B.A.T Industries?
A. Not necessarily.
Q. Who are they charged by?
A. By one company in the group to another company in the group for technical advice.
Q. Now the next thing it says is "Fares." What are fares?
A. I'm glad you said that. I couldn't read what it did say. "Fares," is that --
"Fares?"
Q. I believe.
A. I would be speculating that that means travel fares, but that is speculation.
Q. Do you know what expenses is referred to here?
A. No.
Q. How about fees?
A. I think I better -- may --
It may help if I read the rest of the document.

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I'm not sure what this document is.
Q. Well maybe I can shorten this up.
Does B.A.T Industries charge Brown & Williamson, for example, technical and assistance fees?
A. Technical and advisory fees.
Q. Thank you. Let me rephrase the question.
Does B.A.T Industries charge Brown & Williamson technical and advisory fees?
A. I don't think it does, no.
Q. Well sir, isn't it true that B.A.T Industries requires Brown & Williamson to take a portion of its board liability-policy premium?
MR. CORRIGAN: Object to the form of the question, also the implication that that somehow relates to technical and advisory fees.
A. Could you rephrase -- repeat the question?
Q. Sir, isn't it true that B.A.T Industries requires Brown & Williamson to pay a portion of its board liability-policy premium?
MR. CORRIGAN: Object to the form of the question.
A. I have no idea.
Q. You just don't know one way or the other.
A. No, I don't.
Q. All right.

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A. I don't -- I don't --
I'm not even sure I understand what you're talking about.
Q. All right. So would it be fair to say as you sit here today that you just don't know whether B.A.T Industries charges Brown & Williamson fees for technical assistance?
MR. CORRIGAN: Object, asked and answered, but you may answer again.
(Discussion off the stenographic record.)
MS. WIVELL: Let me rephrase the question.
BY MS. WIVELL:
Q. Do you know one way or another whether B.A.T Industries charges Brown & Williamson technical and assistance fees?
MR. CORRIGAN: Objection.
Q. Advisory fees?
MR. CORRIGAN: Advisory. Thank you.
I think he already answered that question, but he's going to answer again.
A. No, I don't know.
Q. Now you mentioned from time to time that B.A.T Industries has in the past had holdings that it no longer has in the retail field; correct?
A. Yes, correct.

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Q. For example, B.A.T Industries used to own Marshall Fields Department Stores in the United States; right?

MR. CORRIGAN: Object to the form, but you may answer.

A. Marshall Fields used to be a subsidiary, indirectly, through BATUS of B.A.T Industries P.L.C., yes.

Q. And today B.A.T Industries owns Farmers Insurance in the United States; doesn't it?

A. Today, again through a subsidiary, B.A.T Industries is the ultimate shareholder of Farmers Insurance Group in the United States, correct.

Q. All right. Well we've been talking a little bit about your company. I'd like to talk a little bit about you, sir.

You're 49 --

A. If we're going to change subject, do you mind if we just take a few minutes' break?

Q. Not at all. And if you need a break, let me know.

A. Thank you very much.

MR. CORRIGAN: Thank you.

THE REPORTER: Off the record, please.

(Recess taken.)

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BY MS. WIVELL:

Q. Sir, you're 49 years old; right?

A. I wish. I'm afraid it's 50.

Q. Oh, well.

You joined British-American Tobacco Company as a traveling auditor in 1971; right?

A. Correct.

Q. You're an accountant by training?

A. Correct. Chartered accountant.

Q. You have no scientific training?

A. None whatsoever.

Q. You have no medical training?

A. None whatsoever.

Q. And between 1971 and 1980, what positions did you hold?

A. Between 1971 and 1980 -- let me think.

In 1971 through 1974 was the time when I was a traveling auditor, which itself meant I held various positions during that time, which I can go into if you'd like me to. In 1974 I came back to the U.K., was based in the U.K., first as what was called a territorial accountant in the territorial accounting department. What that meant was I was the management accountant, really, for the group of companies responsible for the -- the center, which was

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responsible for the operations there of the group of companies in the Far East and Asia. Then I did a special project for a while. Then around about 1976 I became the assistant finance advisor for Africa and the Caribbean, which was part of the central advisory team to the African company subsidiaries and the Caribbean subsidiaries. I then, at around the time of the reorganization, which was where we were talking earlier where Tobacco Securities Trust took over British-American Tobacco to form a holding group, a holding entity, so that B.A.T Industries became then the holding company for British-American Tobacco, I started on a diversification project working for one of the finance directors in B.A.T Industries. I then went back in 1978 to be the deputy chief accountant of British-American Tobacco Company, and then in 1979 I became the finance advisor to the Far East. Again, this is really where we had a small group of people in the center responsible for giving advice to the operating companies in the Far East or various parts. This -- this was the Far East companies. So I became the finance advisor. And then in 1980 I went to Brazil.

Q. You went to Souza Cruz.

A. I went to Souza Cruz.

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Q. You became its financial director in 1984.
A. I became, yeah, finance director of the Souza Cruz holding company in 1984.
Q. And you became a member of the B.A.T Industries board of directors in 1988.
A. 1988, B.A.T Industries board of directors, correct.
Q. Now before you became --
A. You've missed out a few things.
Q. Oh, I know, I know. I'm trying to hit the high points.
A. Oh. Insurance was quite a high point.
Q. Okay. All right. Well tell us about your insurance involvement then.
A. In 1985 I became the finance director of Eagle Star Insurance Group, which was an insurance group, a major U.K.-based international insurance group which the group had acquired in 1984, so I moved then into the -- into the insurance side of the operations.
Q. Now eventually you were appointed to the B.A.T Industries policy committee; correct?
A. Yes, CPC, the Chairman's Policy Committee.
Q. What is the CPC?
A. What was the CPC.
Q. Fair enough.

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A. It's no longer in existence.

The CPC, the Chairman's Policy Committee, was a committee comprising the chairman, the senior finance director -- and I say that because at various times we've had more than one finance director operating in conjunction -- and maybe one or two other people. At one time there may have been three other people. It's -- it's a -- it's usually comprised of three or four members, all of whom are directors of B.A.T Industries P.L.C., and it is the body within B.A.T Industries which has the delegated authority to agree to certain proposals -- major proposals that exceed the authority of the operating groups, but therefore requires either approval of the main board of B.A.T Industries P.L.C., in which case it should be approved by the CPC first, or it can be sometimes approved by the CPC. So this was for major acquisitions or major projects.

Q. Now sir, when you're referring to the chairman in that last answer, you're referring to the chairman of B.A.T Industries P.L.C.; correct?

A. Correct.

Q. When did you become chief executive officer of B.A.T Industries?

A. On the beginning of April 1993.

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Q. And before that, B.A.T Industries had never had a chief executive officer; had they?

A. Well they had, effectively. I mean the --

Before that, the Sir Patrick Sheehy, who was the chairman, had been both chairman and chief executive officer. So he was referred to as chairman, but in fact the two roles were both carried out by Sir Patrick.

Q. But at the time you took up the role of chief executive officer of B.A.T Industries, that was the first time there had been a separate person in that position.

A. That's right. That was the first time we had separated into two people the roles of chairman and chief executive officer.

Q. Now when did Sir Patrick retire?

A. Sir Patrick retired -- what are we now -- the end of 1995.

Q. What was your compensation last year?

A. What was my compensation last year?

You know, I'm not really sure. Have you got --

If you've got the report and accounts, that would -- that would tell me.

Q. I'm afraid I don't.

Can you remember approximately and tell the

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ladies and gentlemen what you made last year?
A. My salary was around about 470,000 pounds.
Q. What would that be in dollars, approximately?
A. Seven hundred thousand.
Q. And you receive additional compensation in addition to your salary; right?
A. Bonus.
Q. What did you receive in bonus last year, sir?
A. Maybe 200,000, something like that.
Q. Pounds?
A. Pounds.
Q. And in dollars that would be?
A. Three hundred thousand.
Q. Do you receive additional compensation as part of your compensation package?
A. The corporation pays into a pension fund for all of its employees, including me, a pension contribution to future pension, but that's not compensation, so to speak, for last year, but it is -- is classified as compensation because it's with respect to the time spent with the corporation last year to pay towards a future pension.
Q. Approximately what was the amount paid in on your behalf last year?
A. I'm sorry, I -- I don't know.

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Q. Do you receive stock options?
A. Yes.
Q. Do you own stock in B.A.T Industries P.L.C.?
A. I do own stock in B.A.T Industries P.L.C., yes.
Q. How much stock do you have?
A. Roughly a hundred thousand shares.
Q. To the best of your knowledge, what is that stock valued at today, or what is -- I -- strike that.

To the best of your knowledge, what is a share of B.A.T Industries P.L.C. stock valued at today?
A. Around about five pounds thirty.
Q. So approximately what is the value of the total B.A.T Industries stock that you own today?
A. Would be just over 500,000 pounds.
Q. And in dollars?
A. Seven fifty, eight hundred.
Q. Did you receive a raise this year?
A. This year, 1997?
Q. Yes, sir.
A. Yes, I did.
Q. What are you making this year salary-wise?
A. This may seem surprising, but I'm not absolutely sure.

Salary is, let me think, five hundred and -- I

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think it's five hundred fifty, but I -- I couldn't say that with absolute accuracy.

Q. Approximately 550,000 pounds.

A. Correct.

Q. And in dollars what would that be?

A. Well the exchange rate has moved a little bit over the last few months, so it's probably worth effectively more in dollars, so maybe eight fifty, nine hundred, something like that.

Q. Are you going to receive stock options this year?

A. No. We have a system whereby the stock options -- the maximum stock option that you can receive in any 10-year period is four times your annual salary, so to the extent that the salary increased, then yes, I can receive stock options to the nominal value -- not -- to the market value of four times the increase.

Q. Do you expect to get a bonus this year, sir?

A. I'm not at all sure, the way things are going now.

Q. Do you own stock in any other B.A.T. Group company?

A. No.

Q. You don't smoke cigarettes; do you, sir?

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A. No.
Q. You take a pipe from time to time.
A. No.
Q. Do you smoke cigars from time to time?
A. Very occasionally.
Q. Have you ever smoked cigarettes?
A. Have I ever smoked cigarettes? Yes, I have.
Q. When?
A. Oh, occasionally on a market visit or something like that, if we -- if we --

If I'm visiting a market, and particularly if I'm at a -- an event or promotion event where a promotion person offers me a cigarette, I might take it, light it, smoke it for a little while, put it out.

Q. It would be bad for him not to; wouldn't it, sir?
A. No, not at all, not at all. Absolutely on the contrary. But I think in a situation like that where I'm offered one, I'm quite happy to take one.
Q. All right. I -- I'd like to turn back a little bit to the history of British-American Tobacco, and I think we touched on that earlier. You understand that British-American Tobacco Company was formed in approximately 1902?

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A. Correct.
Q. And in about 1954 a recommendation was made to develop a research center at Southampton, England; wasn't it, sir?
MR. CORRIGAN: Objection to form.
A. Was it?
Q. You don't know?
A. No idea.
Q. All right. You understand that there was a research facility developed at Southampton for British-American Tobacco Company; correct?
A. I understand that there is a research development operation at Southampton. It's been there for quite a long time, but I couldn't tell you from when.
Q. Did you understand that the reason that that facility was built was to understand more about the products that British-American Tobacco Company were selling?
MR. CORRIGAN: Object to the form.
A. I understood it was there to do research.
Q. On the products that British-American Tobacco Company was selling.
A. Not solely.
Q. About the products British-American Tobacco

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Company was selling.

A. In connection with the product, yeah.

Q. Okay. And that research center at Southampton was built when British-American Tobacco Company Limited -- I'm sorry. Strike that.

That facility was built before British-American Tobacco Company was merged with the Tobacco Securities Trust.

MR. CORRIGAN: Object to the form of the question.

A. I just said I wasn't sure when it was built.

Q. It was in existence at the time of the merger, though, in 1976; right?

MR. CORRIGAN: Object to the form of the question.

A. So the -- the --

There was a research department or research building/operation in Southampton certainly when I joined the group in 1971.

Q. And did you understand that that Southampton facility undertook biological research relating to cigarettes?

MR. CORRIGAN: Object to the form.

A. Did I understand?

Q. Yes, sir.

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A. When?
Q. Well did you understand that, at any time, the Southampton facility undertook biological research relating to cigarettes?
MR. CORRIGAN: Well let me object to the form. There's -- there's two problems with the question. One is any time with respect to when the research was conducted, and the other is the time of his understanding. I'd ask you to rephrase it to remove that ambiguity, if you could.
Q. Did you understand that the Southampton facility at any time undertook biological research related to cigarettes?
MR. CORRIGAN: Well my objection is when. I would like you to ask him when did he understand, or -- or either rephrase it to do, because it's ambiguous as to when this understanding, what -- what you're intending to elicit from the witness in terms of time.
MS. WIVELL: I object to your violation of the court's order. If you have an objection, just please state it; then I'll rephrase the question if I think it's necessary.
MR. CORRIGAN: You heard my objection, and you can do what you'd like.

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MS. WIVELL: I object to your coaching the witness.

THE WITNESS: Sorry, could we start again?

Q. Sir, did you understand that the Southampton facility undertook biological research relating to cigarettes?

MR. CORRIGAN: Same objection.

A. I'm -- I'm a little confused by the question.

(Plaintiffs' Exhibit 492 was marked for identification.)

BY MS. WIVELL:

Q. Sir, showing you what's been marked as Plaintiffs' Exhibit 492, this is a document entitled "BIOLOGICAL RESEARCH IN GR & DC;" correct?

A. Correct.

Q. For the record, it's Bates numbered 10986797 as its beginning Bates number; right, sir?

A. Correct.

Q. All right. Now the first sentence of this document reads, "Biological research was originally set up at GR & DC in 1972 to anticipate the requirements of the Independent Scientific Committee on Smoking and Health." Do you see that, sir?

MR. CORRIGAN: Please take -- take your time and read the document first.

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A. Yeah, I mean I think -- if -- if you're going to ask me questions about the document, do you mind if I take the time out to read the document?

Q. Well I'm just going to focus on that sentence.

MR. CORRIGAN: If you wish to read the document first, just go ahead and read it.

MS. WIVELL: Fine, then we'll go off the record.

THE WITNESS: Please.

THE REPORTER: Off the record, please.

(Discussion off the record.)

BY MS. WIVELL:

Q. Sir, you've read the document?

A. Yes, I have.

Q. Now the first sentence of the document says, "Biological research was originally set up at GR & DC in 1972 to anticipate the requirements of the Independent Scientific Committee on Smoking and Health;" correct?

A. It does.

Q. All right. Now did you understand that biological research was carried out at the Southampton facility?

MR. CORRIGAN: Object to the form.

A. I do understand that some biological research

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was carried out.

Q. All right. G.R. & D.C. refers to Group Research & Development Center; doesn't it?

A. Correct.

Q. And it was meant to provide research to the BAT Group companies; wasn't it?

MR. CORRIGAN: Object to the form.

A. It was meant to do research of various natures in relation to cigarettes. At various stages within its history, the role of Southampton has changed, as indeed research around the group has changed, as frankly with every department in the group. Nothing special about research. The role changes from time to time. So at various times its role has been different. At various times its kind of research done has been different. At various times its role in relation to the other parts of the group at the other tobacco subsidiaries in the B.A.T. Group has been different. So at any particular time, I couldn't tell you what the particular relationship was.

Q. It would be fair to say, though, that because of the Group Research & Development Center and its ability to do biological research, it allowed B.A.T. to be in a good position to evaluate the inhalation

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toxicity of cigarette smoke.

MR. CORRIGAN: Object to the form of the question.

A. I think --

I think perhaps I should explain. Science isn't actually my strong card, Biology actually was the first subject I ever gave up at school, and my knowledge of quite what it was achieving or trying to achieve, et cetera, is pretty limited. So if you want to get into scientific terms, please feel free to do so, but I'm not sure I'm going to be able to help you very much on the scientific matters as such. Policy, yes, but scientific issues themselves, --

Q. All right.

A. -- then I'm afraid you'll lose me quite quickly.

Q. This document says at the beginning of the third paragraph, though, quote, "It is fair to say that, as a result of having its own biological research unit, BAT is best positioned to evaluate the inhalation toxicity of cigarette smoke;" correct?

A. That's what the document says, so the author of the document is saying that. But if you're asking me, then --

Q. You just don't have any knowledge one way or the other whether that statement is correct.

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A. Correct. That's right.
Q. Who was Graham Smith?
A. I don't know.
Q. But he is the author of the document.
A. His name appears at the bottom of it.
Q. All right. Now sir, isn't it a fact that the G.R. & D.C. facility was established as the prime research facility for B.A.T. tobacco interests?
MR. CORRIGAN: Object to the form.
A. I don't know. I say I don't know when it was established. I'm not sure whether it was the first research operation established in the BAT Group of companies, or whether it was established as the prime research. And as I said to you earlier, I think the role has changed at various stages over the years.
MS. WIVELL: All right. Mr. Stirewalt, could you get out Exhibit 20, please.
(Exhibit 20 handed to the witness.)
BY MS. WIVELL:
Q. Sir, showing you what's been marked as Exhibit 20, this is a document Bates numbered 104812334; correct?
MR. CORRIGAN: That's the first page.
A. Correct.
Q. Now would you turn your attention to the

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paragraph immediately under the heading "The revised strategy for R&D in BAT" on the first page.

A. I was just trying to look for a date, and it doesn't seem to have a date. Okay. I was just trying --

Sorry, I would just like to locate it so I could get a feeling for when this was written. Sorry. You were just referring me to a section.

Q. Yes. Do you see where it says "The revised strategy for R&D in BAT?"

A. Yes, I do.

Q. You understand that R&D refers to research and development?

A. That would be my understanding.

Q. And it says there in the first sentence, "The Group Research and Development Center, paren, GR&DC, paren, was established thirty years ago to be the prime research facility for BAT tobacco interests;" correct?

A. That's what it says.

Q. And as you sit here today, you don't have any knowledge that disputes that; do you, sir?

MR. CORRIGAN: Well it would help if you could -- if you know the date of the document here, Ms. Wivell. If you don't, fine. You can answer

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recognizing we can't peg a date.

A. Sorry, could you get it back?

Q. Certainly.

The question is: And as you sit here today, you don't have any knowledge that disputes that statement; do you, sir?

A. I don't like to be difficult. Disputes which statement was it?

Oh, this statement here --

Q. Yes.

A. -- that the group research was established thirty years ago to be the prime research facility for BAT tobacco interests.

No, I have no knowledge that either disputes or -- or -- or ratifies that statement.

(Plaintiffs' Exhibit 493 was marked for identification.)

BY MS. WIVELL:

Q. Sir, showing you what's been marked as Plaintiffs' Exhibit 493, have you seen this document before?

A. I don't recall.

Can I just have a close look at it? But it is -- this is a --

Q. All right, let me identify it for the record.

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It's Bates numbered 660915916; correct?
A. Sorry.
Yes, correct.
Q. It's dated September 6, 1979; right?
A. Yes, it is.
Q. Have you --
Now having paged through it, have you ever seen it before?
A. I don't recall ever seeing it before.
Q. All right.
A. I mean this is a -- a document that's a Brown & Williamson International Tobacco document, so I -- I'm not surprised that I haven't seen it before.
Q. All right. Before I ask you any questions about it, would you like the opportunity to read it?
MR. CORRIGAN: Are you going to be asking --
A. If you're going to ask questions, --
MR. CORRIGAN: -- questions about it?
A. -- yes, I would like an opportunity to read this.
MS. WIVELL: All right. Why don't we go off the record while you read it.
THE REPORTER: Off the record, please.
(Discussion off the record.)

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BY MS. WIVELL:
Q. Sir, you've now read Exhibit 493; right?
A. Yes, I have.
Q. All right. That letter essentially sets out some of the organization of B.A.T Industries and some of the related companies at the time the letter was written; correct?
MR. CORRIGAN: I object to the form. The letter speaks for itself. But you may answer.
A. Yeah. Perhaps it's useful to just describe the letter because it, in a sense, is an unusual sort of letter. It sounds --
It's written by an Ian Hacking, who defines himself as KENT/TRUE Brand Group.
Q. All right. And --
MR. CORRIGAN: He hasn't finished his answer.
MS. WIVELL: Oh, I'm sorry.
A. Which is -- suggests at that time that Ian Hacking was responsible for those two brands -- Kent and True were two different brands -- within Brown & Williamson International Tobacco. And it's addressed to a Nick Oppenheim of Foote, Cone & Belding, which is an advertising agency.
So I'm speculating here, but what it looks

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like, and -- and I haven't seen it before today, is a -- a letter which defines Ian Hacking's understanding as a relatively junior person of the way the group operates, and he's describing it to an advertising agency. He wants to get a good feel for the -- the general way that we operate so he can respond.

Q. All right. And on the last page of the document, in the third paragraph, it says, "Whichever way you cut it, Mr. Sheehy is our boss...." Right?

A. That's what it says.

Q. Mr. Sheehy, at the time this letter was written, was B.A.T Industries chairman; wasn't he?

A. I don't think so.

Q. What was his position at the time?

A. This is written in September 6, 1979. As I recall, in September 6, 1979, Mr. Sheehy was chairman of British-American Tobacco Company.

Q. All right.

A. I think.

Q. He was also on the board of directors of B.A.T Industries; correct?

A. He was certainly on the board of directors of B.A.T Industries Group, but I think Sir Peter Macadam was actually the chairman of B.A.T Industries.

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Q. Now at the time this letter was written, according to its author there was a tobacco division board which Mr. Sheehy chaired; right?
A. Correct.
Q. All right. And the tobacco division had the responsibility of directing the activities of the tobacco portion of the BAT Group companies at the time; didn't it?
A. Well that's where it gets quite interesting, is the date, because this is dated September 6th, 1979, and there was a restructuring in 1979, but I couldn't tell you more closely when in 1979, it started in 1979, which changed the structure. So I mean I think, but I'm speculating to an extent, I think what this is is just before -- it appears to be describing the situation just before the change.
Q. Does it accurately describe the situation right before the change organization-wise?
A. Well that's -- that's a very difficult question. This is a long paper, it's six pages long. It goes into all sorts of things, some of which I recognize, some of which I don't recognize. So to say does it accurately reflect I think would be beyond my capacity to say.
Q. But you did understand that there was a tobacco

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division board which was in operation in the late '70s concerning the tobacco operations of the BAT Group companies.

A. No. He refers here, you're certainly correct, to tobacco division board, and that is a phrase. As you see on the first page, he refers to the fact that there are currently four operating divisions of B.A.T Industries, these are tobacco, paper, retail and cosmetics. And certainly shorthand. So each operating division has its own board of directors, and the tobacco division board is chaired by Mr. Sheehy. Then it lists the other members of that.

I couldn't recall to what extent he is using shorthand here and to what extent he is being literal or legally accurate. My recollection is, prior to the restructuring, British-American Tobacco Company was in fact synonymous with the term "tobacco division," and I think at that stage, prior to the restructuring, all of the operating subsidiaries reported directly or indirectly to the BATCO board. So I -- I think when he's using "tobacco division," he's actually referring to the BATCO board, but I wouldn't be certain about it.

Q. That's because you've never spoke to him about this letter; have you, sir?

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A. Correct.
Q. You've never seen this letter before today.
A. I've never seen this letter before today.
Q. It does say at the top of the page, "The Tobacco Division Board is completed by the Territorial Directors;" correct?
A. Correct.
Q. It goes on to say, "These directors are responsible for the profit performance of the BAT Associates in the region of the world which is deemed their territory;" correct?
A. That's what it says.
Q. By "BAT Associates," he would include Brown & Williamson; wouldn't he, sir?
A. Yeah. He defines in here what he means by associates, so rather than having my definition, it's probably better to take his. In fact here it says -- Yeah.

MR. CORRIGAN: Page two.

A. Page two, if you look under, it says "Why are the associates powerful?" it says "BAT developed its empire by entrusting the management of local markets to companies it built up over years and which are increasingly staffed by local nationals. BAT or its, quote, paper, unquote, companies registered in London

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have equity shares in these local companies which are called Associates."

So by the term "associates," he's referring to what I would call principally subsidiaries.

Q. All right. Then he goes on to say, "In certain cases like B&W or BAT Germany, the equity holding is 100 percent."

A. That's what I refer to as a subsidiary.

Q. Sir, I've got to warn you, please try and wait until I answer and I'll try to do the same.

A. I apologize.

Q. Otherwise the court reporter has a dickens of a time taking things down.

Now by "equity holdings," it means it's a hundred percent owned; right?

A. Where it says the equity holding is a hundred percent, yes, that means that B.A.T. would own 100 percent of the shares.

Q. And the associates, according to this letter, were -- I'm sorry, strike that.

The associates in the tobacco division, according to this document, were directed by Mr. Sheehy.

MR. CORRIGAN: Object to the form.

A. No, I don't think that's what it says.

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Q. Well it says the tobacco division board is chaired by Mr. Sheehy, and now there is a managing director, Mr. Stewert Lockhart; correct?

MR. CORRIGAN: What -- what page are you referring to?

A. Yes. Page one, "The Tobacco Division Board is chaired by Mr. Sheehy and now there's a Managing Director, Mr. Stewart Lockhart." Correct.

Q. Okay. And in fact the letter goes on to talk about profits being remitted from --

A. Could you please tell me which page?

Q. Let me finish the question first.

The letter goes on to talk about profits being remitted from the associates, including Brown & Williamson, to London; correct?

A. Could you tell me which page that's on?

Q. All right. Let's see if I can find it here.

On the bottom of the second page of the document, in the second-to-the-last paragraph, it says, "Millbank is the H.Q," meaning headquarters; correct?

A. Correct.

Q. "The local companies earn the profits?"

A. Correct.

Q. "That is why they are powerful depending on

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Source: http://www.industrydocuments.ucsf.edu/docs/qpxd0001

either the absolute profit (Souza Cruz) or the profit which can be remitted to London (BAT Germany) or both (B&W);" right?

A. That's what it says.

Q. And in fact, Brown & Williamson did remit profits to B.A.T Industries in London; didn't it, sir?

MR. CORRIGAN: Object to the form of the question. That's not what the letter says.

A. And in any event, the answer specifically would be no.

Q. So it's your testimony that Brown & Williamson does not remit profits to B.A.T Industries?

MR. CORRIGAN: Object to the form of the question. That is a different question that has nothing to do with the letter.

A. I mean I think --

Let's step back a bit and look at the role, again, of -- of a holding company and the role of an operating subsidiary and the number of companies in between. As this paper quite rightly says, the operating companies managed by the local management are the ones which earn the profits, and the holding company is the ultimate investor/shareholder of those companies, and -- and it would be normal practice,

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yes, for those companies to remit a certain percentage, whatever is appropriate, of the profits either in the form of dividends -- normally in the form of dividends. It could be in a different form, depending on the structure of the shareholding and arrangement; there may be loans made to the company, in which case they're paying interest, there may be shares for which dividends are paid, et cetera.

Your question specifically was was B&W remitting profits to B.A.T Industries, and the answer would be no. The effect, the ultimate effect would be pretty much yes, but a T --

Brown & Williamson would remit dividends to its parent company, and that parent company may keep the money, it may invest that money in a different part of the business, or it may remit it further up to B.A.T Industries. It -- it depends on the individual roles and responsibilities of the companies in the corporation. But ultimately, B.A.T Industries, as an investment holding company, is expecting to receive profits in the form of dividends from the operations through one mechanism or another.

Q. Just so the ladies and gentlemen are clear here, Brown & Williamson pays dividends to B.A.T Industries; doesn't it?

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MR. CORRIGAN: Objection. The witness just explained. If you want him to explain again, he can.

A. I am prepared to go through it again, if you like.

Q. Well that's the bottom --

A. But the specific -- the specific answer to your question is no.

Q. Well the bottom line is that profits from Brown & Williamson end up in the pocket of B.A.T Industries; doesn't it?

MR. CORRIGAN: Object to the form of the question. The witness explained that. You may do so again if you wish.

A. Perhaps let me have another try at explaining it.

Operating companies like Brown & Williamson, and let's take Brown & Williamson as the specific example since that's the one you're interested in, will put forward plans on an operating annual basis, on a budget or something like that. In those plans it will forecast its own cash-flow expectations, it will forecast its own investment expectations, it will forecast how much cash it needs to expand its business or whatever its plans happen to be. Part of the role of the ultimate parent, B.A.T Industries, is

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to ensure that all of its operations around the world are properly capitalized, appropriately funded, which may include borrowings, it may include equity capital, share capital, to develop their business. As a result of that, those discussions, those proposals, a dividend is likely to be paid, not necessarily paid, depends on the investment proposals that have been put forward, and that dividend could be 10 percent, 20 percent, 50 percent, it could even be a hundred percent in certain circumstances. And then the dividend will be remitted to -- ultimately to the U.K. and may ultimately be remitted to B.A.T Industries own shareholders, because B.A.T Industries is only an investment company, which itself is owned by a hundred thousand or more individual shareholders, and pension funds, et cetera, whom themselves expect a dividend on their remittance.

So B.A.T Industries itself is really only a -- an intermediate holder of that money by receiving it from the operating companies and paying it to its shareholders.

Q. Now sir, at the end of Exhibit 493 there is reference to a reorganization, about a company replacing B&W Industries on January 1, 1980. Do you know to what that refers?

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A. Could you --
Q. The last sentence of the document.
A. Right. Sorry. "What is BATUS?
"It is the holding company for BAT's investments in the U.S. Mr. Sheehy is on the board of directors. When we know more about this holding company which replaces B&W Industries on January the 1st, 1980, we will let you know!"
MR. CORRIGAN: The witness has now read the sentence from the document. There should be quotations.
A. Now BATUS, as it says here, is certainly the holding company -- sorry, correction -- was certainly at that time the holding company for all B.A.T.'s investments in the U.S., be they tobacco, paper, retailing, et cetera. I don't know what B&W Industries was, so I -- I don't think I can help you in that particular part of the question.
Q. All right. In 1981 there was another reorganization at which time B.A.T Industries assigned to BATCO the responsibility of coordinating all of the tobacco activities of the various BAT Group companies; correct?
A. 1981. Well there was a --
I'm not sure whether that's correct or not.

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(Plaintiffs' Exhibit 494 was marked for identification.)

BY MS. WIVELL:

Q. Sir, showing you what has been marked as Plaintiffs' Exhibit 494, this is a document dated January 20th, 1981; correct?

A. Yes, it is.

Q. It's Bates numbered 107476910; right?

A. Correct.

Q. That's the first Bates number.

A. That's the first Bates number.

Q. The title is "ANNOUNCEMENT OF GROUP STRUCTURE."

A. Correct.

Q. And doesn't this document set forth a new structure at which -- or during which -- strike that.

Doesn't this document set forth a new structure detailing how B.A.T Industries assigned to BATCO the coordination of tobacco activities for the BAT Group companies?

MR. CORRIGAN: Object to the form.

A. I think --

It doesn't appear to at first sight, so perhaps I should read the document in full. You're just reading the first bit. It doesn't appear to do that.

Q. All right.

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A. So perhaps I could have time.

MS. WIVELL: Why don't we go off the record.

THE REPORTER: Off the record, please.

(Discussion off the record.)

BY MS. WIVELL:

Q. I'm going to withdraw the previous question.

Sir, you have had the opportunity to read Exhibit 494.

A. Yes, I have.

Q. And it talks about the role that BATCO had in relation to the activities of the tobacco members of the BAT Group companies; correct?

A. It talks about -- yeah. It talks about its, BATCO's, role. This is a letter from the managing director of BATCO. It's really not a letter as much as it is an announcement to its staff to explain there's been a change in some of the responsibilities of BATCO, but then really goes on to restate what BATCO's ongoing role would be --

Q. All right.

A. -- in relation to the tobacco operations of the group.

Q. And this exhibit talks about what the role of BATCO was with regard to the tobacco activities of

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the group before this document and what it will continue to be; right?

A. Principally what it will continue to be.

Q. Okay. And it says that that principal role is and will continue to be to lead, influence, coordinate all the tobacco activities of the group, irrespective of whether the shareholding links of the associated or subsidiary companies are with B.A.T Industries or BATCO; correct?

A. Correct. And then goes on to explain what it means by that.

Q. Okay. Would that be a correct statement of what BATCO's role was at the time?

A. Yeah. I think -- I think it bears some explanations to -- to -- to help people to understand what that means rather than take it in isolation.

What this is saying is -- is that from 1979 through 1981 and beyond there was a restructuring whereby certain parts of the group which had previously been subsidiaries of BATCO became direct subsidiaries of B.A.T Industries. And really this, was occurring where those businesses were increasingly getting involved in industries other than tobacco. So it actually lays out some of the criteria for that.

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And so certainly at this stage, at the stage of 1981 when this was written, Brown & Williamson was part of BATUS, as we've talked before, became its holding company. BATUS was responsible for all of the BAT Group's U.S. interests, including retail, paper, et cetera, and therefore, BATUS reported directly to B.A.T Industries. At this particular stage, Interversa, which is the German operation, was moving onto the same platform. IMASCO, the Canadian operation, AMATIL, the Australian operation, were all equally moving on there. And I think I'm right in saying Souza Cruz, the Brazilian operation, also did so subsequent to this. So it was an ongoing process of change.

So I think you need to understand that to understand what -- the role of BATCO in relation to those tobacco operations, which no longer reported to BATCO.

Q. When --

A. And -- and this paper is trying to outline what that role is, where you need to coordinate activities between companies which are no longer part of BATCO Group.

Q. Would it be fair to say, then, based on your answer, that at the time this document was written,

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Brown & Williamson no longer reported to BATCO?

A. Correct.

Q. Brown & Williamson reported to B.A.T. U.S.

A. BATUS, yes.

Q. BATUS.

And then BATUS reported directly to B.A.T Industries.

A. Correct.

Q. All right. And at the same time, despite the fact that Brown & Williamson no longer reported to BATCO, BATCO continued to have a coordination responsibility with regard to Brown & Williamson and the other tobacco member groups of the BAT Group.

A. That is correct. Coordination of certain aspects of the business which required coordination.

Q. All right. And this was a structure that had been set up by the board of B.A.T Industries.

A. Yeah. This is a fairly normal kind of structure that would occur in most holding companies.

Q. But it was set up by B.A.T Industries board.

A. It would have been -- it's the kind of --

I'm speculating. I think 1981, I mean I think it's fair to say it would have been at the request of B.A.T Industries, yes.

Q. And as a matter of fact, there's even a

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reference at the bottom of the second page of the document to the overall rationale of B.A.T Industries; right?

A. That is correct.

Q. And as a result, isn't it fair to say that the BATCO board was charged by B.A.T Industries with developing and coordinating key strategies for the tobacco industry -- I'm sorry -- for the tobacco members of the BAT Group?

MR. CORRIGAN: Are we in the same timeframe now?

MS. WIVELL: Yes, sir.

A. Could you just rephrase that, because -- not -- I'm sorry. Could you repeat that, because I'm not quite sure --

Q. All right. Isn't it fair to say that as a result, the BATCO board of directors was charged by B.A.T Industries with developing and coordinating key strategies for the tobacco members -- members of the BAT Group?

A. Developing and coordinating, yeah, with certain key strategies, not necessarily everything.

I think, if I could just add to that, I mean I had already referred in earlier testimony to the CAC, the Chairman's Advisory -- as I said, I can't

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remember whether it's the Council or Committee -- which also had a role in talking about the strategy in relation to the various operations of the group, not specifically to BATCO but not excluding BATCO.

Q. Just so the ladies and gentlemen can understand, by the CAC, you're referring to the Chairman's Advisory Committee or Council of B.A.T Industries which retained an advisory responsibility for the tobacco members of the BAT Group.

MR. CORRIGAN: Object to the form.

A. No, I don't think that was what I said.

Q. Well, so we're clear, the CAC was a B.A.T Industries committee.

MR. CORRIGAN: Object to the form.

Q. Right?

A. The B --

The CAC was a forum, let's say it's a forum, not a committee as such. It was a forum in which the members of the board of B.A.T Industries consulted with the chief executives of five or six operating groups. Those operating groups operated in more than one activity, and those chief executives advised the chairman and the board of B -- B.A.T. P.L.C. on what they considered to be the appropriate strategy, not just for their own operations, but for the group as a

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whole, inclusive of each of its operating divisions.

Q. And as a matter of fact -- strike that.

During this same period, BATCO set up a manager -- a position within its managerial system of manager of smoking issues; correct?

A. I don't know.

Q. All right. Well, did you understand that there was a part of BATCO that was directed at addressing smoking-and-health issues?

A. Yes.

Q. All right. And you understood that that part of BATCO was responsible to the research director of BATCO.

A. Sorry. My understanding was that the part of BATCO with a responsibility for smoking-and-health issues was responsible to the research director? Is that the question?

Q. Yes.

A. I think that's right, but I really couldn't say for certain.

Q. But the person responsible for smoking-and-health issues also had to follow the requirements of the B.A.T Industries board; didn't it?

MR. CORRIGAN: Object to the form of the

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question.
A. Well I think it's -- it's --
Let's go back a little bit. I mean again, if you take the role of a holding company, i.e., B.A.T Industries, it is to set and agree to various policies -- a framework in which the businesses can operate. So yes, B.A.T Industries would set general policy direction in relation to a whole series of issues, environmental issues, safety-at-work issues. Smoking and health would have been one of those issues in which B.A.T Industries would set a general policy. Then the operations themselves would carry out that policy in one size or shape or form.
Q. Now --
A. So I'm not -- I'm not sure whether that is --
I'm just trying to give a helpful answer to you.
Q. You said that the board would set. The board did set --
A. Sorry.
Q. -- smoking-and-health-related policies for all of the BAT Group; didn't it?
MR. CORRIGAN: Object to the form.
A. The board of B.A.T Industries certainly adopted policies in relation to, like I said, smoking and health as well as environmental, safety at work and

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various other issues over very -- at various times. I don't have a particular date in mind for you.

Q. Well, and isn't it a fact that the board of B.A.T Industries established requirements concerning smoking and health from time to time?

MR. CORRIGAN: Object to the form. My objection is based on the ambiguity of the phrase "requirements."

A. I'm not sure what you have in mind.

Q. You're just unaware of any requirements that were established by the B.A.T Industries board regarding smoking and health?

MR. CORRIGAN: Same objection. Go ahead.

A. No, I'm not unaware of any requirements. What I'm -- what I'm saying is the board sets the policy. It is a requirement that operating groups follow the policy. And that's a general requirement.

Q. So what you're telling us is that when the board establishes a policy, it expects the members of the BAT Group to follow that policy; right?

A. To operate within the terms of that policy. But the policy would be a fairly broad policy.

MS. WIVELL: Mr. Stirewalt, would you get out Exhibit 489.

(Exhibit 489 handed to the witness.)

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BY MS. WIVELL:

Q. Sir, showing you what was marked as Exhibit 489, this is a document that begins with the Bates number 109670273; right?

A. Correct.

Q. And it concerns a job entitled "MANAGER, SMOKING ISSUES, GROUP RESEARCH & DEVELOPMENT CENTRE;" right?

A. That's what it says.

Q. All right. And Group Research & Development Center we've seen referred to in other documents as G.R. & D.C.; correct?

A. Correct.

Q. Now according to this job description, the purpose as stated on the first page is "To maintain an up to date knowledge of Smoking and Health issues worldwide, examine their implications, produce reports and recommend to the Boards of BAT Co Ltd. and BAT Industries plc and associated companies appropriate courses of action;" correct?

A. It does say that.

Q. All right. And sir, isn't it a fact that Mr. Thornton held this position as manager of smoking issues?

A. I would not be able to say that with any --

Maybe I should have a look at the document --

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Q. All right.
A. -- because I -- I really don't know Mr. Thornton's history --
Q. All right.
A. -- of the various roles he's held.
Q. But could you look down where it says "Job Holder." Do you see the name R. E. Thornton?
A. Yes, I do.
Q. Do you know who Ray Thornton is?
A. He was an employee within the research function.
Q. All right. Could you turn to the portion of the document that ends with the Bates number 78. Do you have it, sir?
A. Yes, I do.
Q. Do you see under the title "Management Content" --
Let me strike that and restate the question. Do you see the heading "Management Content?"
A. Yes, I do.
Q. Would you take a moment and just read that paragraph.
A. Okay.
Q. There it says, "Annually, objectives are set with the Research Director." Correct?
A. It does.

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Q. You understood that there was a research director at Group Research & Development Center.

A. Well the research director may have been at the Group Research & Development Center, the research director may have been at Millbank. I really couldn't tell you.

Q. All right. But you understood there was a research director.

A. I understood that there was a director responsible for research which may -- may have been purely that, or -- at different times, or it may have been one of the functions that he was responsible for.

Q. All right.

A. The structure changes from time to time.

Q. The document goes on to say, "These will include the requirements of the BAT Industries Board/CPC;" correct?

A. Yes, it does.

Q. Now did you understand that B.A.T Industries did set requirements then?

A. That I would --

I mean I would imagine, and you're asking me to answer this -- I mean that to me is entirely in line with what I said earlier, that you would expect the

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B.A.T Industries board to set the policy, and it would be a requirement to meet the outline in terms of that policy. So that would -- that's what I would understand by the terms of the requirements of the B.A.T. board.

Q. Now after that there is a statement and it says "/CPC". What do you understand the initials "CPC" to mean?

A. That would mean the Chairman's Policy Committee.

Q. Is that the same as the CAC?

A. No, it isn't.

Q. What is the CPC?

A. CPC is the Chairman's Policy Committee, which I think I explained in earlier testimony was the group at B.A.T Industries with delegated authority to operate on behalf of the B.A.T Industries board on certain issues. It comprised the chairman, the senior finance director, and one or two other people at different times. It would be the senior-most subcommittee, shall we say, of the board.

Q. You were a member of the CPC.

A. I --

Not in May 1984 when this was written.

Q. Fair enough. But you were at other times a member of the Chairman's Policy Committee.

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A. Correct, from 1990 onwards.
Q. So would it be fair to say, then, that the person who was responsible for smoking-and-health issues, that held that job, would have been required to follow the directives of the B.A.T Industries board and the CPC?
MR. CORRIGAN: I object to the form of the question. There's no basis in prior testimony to support the assumption in the question.
A. The question was phrased very oddly. I don't think the question rephrased what -- what my explanation was.
Q. Well let me ask you: Was the person who was responsible for smoking-and-health issues required to follow the directives of the B.A.T Industries board and the CPC?
MR. CORRIGAN: Objection, asked and answered.
A. We can do this two ways, and I'm happy with either. I can -- I can take time out and read the whole document, which may or may not help me to explain that, or I can give you an answer which I think is actually the answer you probably are looking for, which is to say that I would expect the job holder for this particular job on smoking issues to

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have seen and to be aware of what the B.A.T Industries board policy was on smoking issues, and to bear that in mind as a framework for operating.

Q. Now in addition to the committees that we've talked about, B.A.T Industries also set up a tobacco strategy review team; didn't it, sir?

MR. CORRIGAN: Object to the form of the question.

A. Could you repeat the question?

Q. All right.

A. Sorry.

Q. B.A.T Industries also set up a tobacco strategy review team.

MR. CORRIGAN: Same -- same objection.

Q. Didn't it?

A. The tobacco strategy review team was certainly set up at some stage.

Q. All right. And you understand it was set up in approximately 1984.

A. I wouldn't dispute the date. I wouldn't confirm the date. It was probably somewhere around then.

Q. You just don't know one way or the other.

A. No, I'm not sure what date it was.

Q. But it was set up by B.A.T Industries; wasn't it?

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MR. CORRIGAN: Object to the form.

A. I'm not absolutely certain --

Let me just step back a bit. Maybe this helps you with this. In running its operations, certainly B.A.T. has set up B.A.T. Group, and in this case it may well be B.A.T Industries board have set up mechanisms for getting coordination between the various operations around the group. The tobacco strategy review team was just one -- just one such of those coordinating teams, and I -- I think it's a reasonable assumption that it was set up at the direction of B.A.T Industries.

Q. All right. Well just so we're clear, Brown & Williamson didn't set it up.

A. No.

Q. B.A.T. U.S. didn't set it up.

A. No.

Q. BATCO didn't set it up.

A. No.

Q. And when it was originally set up, it was made up of the chairman of B.A.T Industries, Sir Patrick Sheehy; right?

A. (Nodding.)

Q. You have to answer out loud.

A. Sorry.

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MR. CORRIGAN: Well he doesn't know where the question mark has been put, Ms. Wivell.

A. I don't know who --

Q. At the time --

A. -- comprised it, as I said.

(Plaintiffs' Exhibit 495 was marked for identification.)

BY MS. WIVELL:

Q. Sir, showing you what's been marked as Plaintiffs' Exhibit 495, this document is entitled "Tobacco: Strategy Review Team;" correct?

A. Correct.

Q. You've seen it before; haven't you?

A. Yes, I have.

Q. Saw it in preparation for your deposition; didn't you?

MR. CORRIGAN: Object to the form of the question. You may answer.

A. I have seen it before. I did also see it in connection with the deposition.

Q. And this document was produced by B.A.T Industries in this case; correct?

A. Beg your pardon?

Q. This document was produced by B.A.T Industries in this case; wasn't it?

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A. "In this case" meaning what?
Q. In the Minnesota tobacco litigation.
A. I have no idea.
Q. It says so at the bottom of the document; doesn't it?
A. It says "BAT INDUSTRIES - MINNESOTA TOBACCO LITIGATION."
Q. Okay.
A. I don't know what that means.
Q. All right. For the record, the number is 201831134; right?
A. Correct.
Q. Now it talks about the first meeting of the tobacco strategy review team; right?
A. Yes, it does.
Q. And the document also talks about the purposes for the tobacco strategy review team.
A. Yeah, gives terms of reference and the principal aim.
Q. All right. "Terms of reference," that's a -- a phrase I don't hear very much in the United States. What do you understand it to mean?
A. Oh, the terms of reference would be trying to outline the role and responsibilities. What it -- what it is responsible for is defined by the terms of

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reference, and, if it's not within those terms of reference, would fall outside its responsibilities.

Q. So it would be fair to say that this document talks about the things that the tobacco strategy review team was responsible for.

A. Yes.

Q. Okay. Now it talks about the first meeting taking place on December 14th, 1984; doesn't it?

A. Yes.

Q. And it tells who was present at the meeting.

A. Yes, it does.

Q. Present were Sir Patrick Sheehy.

A. Then mister.

Q. He later became Sir Patrick; right?

A. That's correct.

Q. All right. What was his position at the time?

A. He was the -- 1984. He was the chairman of B.A.T Industries --

Q. All right.

A. -- P.L.C.

Q. Also president -- or also -- strike that.

Also present was Mr. G. L. Dennis. Who was Mr. Dennis?

A. Mr. Gerald Dennis was -- he was a member of the CPC. I think at that time he was a deputy chairman

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of B.A.T. -- B.A.T Industries P.L.C.

Q. All right. Also present was Mr. E. A. A. Bruell; right?

A. Correct.

Q. What was Mr. Bruell's responsibility?

A. At that stage I think Mr. Bruell was chairman of BATCO.

Q. He also was on the board of B.A.T Industries; wasn't he?

A. He was at some stage. Whether he was in December '84 I couldn't say with certainty.

Q. In addition to those people, Mr. Ricketts was present; right?

A. Correct.

Q. And he was company secretary for B.A.T Industries at the time; wasn't he?

A. I don't think so.

Q. All right. He eventually became company secretary for B.A.T Industries?

A. No. I think he had previously been company secretary.

Q. Ah, thank you.

He was legal director for B.A.T Industries, though; wasn't he?

A. I think that's -- I --

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That's my understanding at that time.
Q. He was a solicitor; right?
A. Yes.
Q. And that's a lawyer, our equivalent of a lawyer in the U.S.; right?
A. That is correct.
Q. Okay. And finally, Mr. Salter was present as --
A. Doctor.
Q. I'm sorry.
A. Dr. Salter.
Q. Thank you. Dr. Salter.
He was the BAT Group policy coordinator; wasn't he?
A. BAT Group policy coordinator? He was -- let me think. He was --
Yeah. He was the head of group planning. I think that was his title.
Q. What's group planning?
A. Group planning was really a role that would coordinate the planning process within the BAT Group. So, for example, there was a whole structure of process for planning. We used to have a process whereby B.A.T Industries would set what it termed guidelines for the operating groups, which was a framework of expectations for the future. The

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operating groups would then come back with what was referred to as a preview, which was a kind of initial three-year -- once -- at various times it's been three years or five years or even 10 years, it's been different time periods. But it's a preview of what they would expect the final business plan to look like. Then there would be a discussion between the operating group and some members of the B.A.T. board, whoever had liaison responsibility with that operation group, and as a result of that, there would be a company plan put forward by each operating group which would then be consolidated into a plan which would be put to the B.A.T Industries board, which would be the approved, hopefully, plan for the whole of the B.A.T. Group. So Dr. Salter's role was really administering that whole process by which the planning cycle was adopted within B.A.T. Group.

Q. And in your last answer, when you're referring to the B.A.T. board, you're referring to the B.A.T Industries board.

A. Thank you. Yes, I was.

Q. And from 1986 on, B.A.T. usually referred to B.A.T Industries, and BATCO referred to British-American Tobacco Company; right?

A. Um, no, not quite right. BATCO certainly

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normally was the -- the shorthand version of British-American Tobacco Company, and that would just be responsible for certain operations of the tobacco group. It would not have included had, say, Brown & Williamson, for example, or Germany or Souza Cruz.

B.A.T. would generally refer to the B.A.T. Group, which would incorporate all of the operations of the group, whether it be tobacco or paper or insurance or whatever. Its nomenclature gets confused at times, but B.A.T. sometimes is also referring to B.A.T Industries, sometimes referring to B.A.T. Group, more frequently B.A.T. Group.

Q. All right. Well just so we're clear here, this tobacco strategy review team was responsible for, according to its terms of reference, a coordinated strategies thrust in tobacco; right?

A. A coherent strategic thrust --

Q. Okay.

A. -- in tobacco.

Q. But it didn't have anything to do with, for example, the financial arm or the paper arm or the retailing arm of B.A.T Industries.

A. No. Correct. There was, for example, a financial services strategy review team. I'm not sure whether it's in 1984 because we only moved into

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financial services in 1984. But at a later date, for example, there was a financial services strategy review team which would have that responsibility.

Q. And one of the principal aims of the team was to make sure that there was a unified approach on smoking issues; correct?

A. Correct.

Q. And the team was also responsible for reviewing the approach being taken on smoking issues by the various BAT Group companies; right?

A. Yeah, I think it's -- it's quite clear, what it says here, review the approach being taken in smoking issues and consider what action needs to be taken to strengthen this approach or to resolve any inconsistencies, is its --

I think a lot of the emphasis is really resolving any inconsistencies.

Q. Now the tobacco strategy review team also had a principal function of resolving key strategic issues for the group's tobacco business; right?

A. Can you just point out to me where it says that?

Q. Certainly. That's in paragraph two; isn't it, sir?

A. "...resolve the key strategic issues of Group's tobacco...." Correct.

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Q. Just so we're clear, the document says, "The Chairman said that he expected the team to meet at about six monthly intervals. He emphasized its principal function would be to discuss and resolve the key strategic issues for the Group's tobacco business;" right?

A. Correct.

Q. Now sir, you eventually became part of the tobacco strategy review team; didn't you?

A. Yes, I did.

Q. And you received the minutes of the meeting that were held when you became a member of the team.

A. Yes, I did.

Q. And this example --

Or this exhibit, pardon me, Exhibit 495, is one of the minutes of that first meeting -- I'm sorry, strike that.

This Exhibit 495 is the minutes of that first meeting; isn't it, sir?

A. This is --

So just to be absolutely clear, this is the minutes of the first meeting of the tobacco strategy review team, not the minutes of the first one I attended.

Q. Fair enough. Fair enough.

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When did you become a member of the team?
A. I think it was in 1990.
Q. And at that time did you review the terms of reference, or, in other words, the goals and objectives of the tobacco strategy review team?
A. You know, it's fair to say the answer to the question is I should have, but I couldn't sit here and say with absolute certainty that did. If sat down and asked "What are the terms of reference of this?" I cannot -- I can't actually remember doing do that.
Q. All right.
A. But I may have.
Q. But when you sat on the committee you did determine that one of its principal functions was to discuss and resolve key strategic issues for the group's tobacco business; right?
MR. BEZANSON: Object to the form.
A. Yeah, I --
You've used the word "determine." I wouldn't have said that I determined it. You may have a different use of the word "determined" than me. I mean I --
Let's say I understood that resolving the key strategic issues for the group's business was the

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principal term of responsibility at the time, yeah.
Q. And did you also understand that another area of responsibility for the tobacco strategy review team was to provide a unified approach on smoking issues to the various group members?
MR. CORRIGAN: Object to the form.
A. I understood that smoking issues, amongst others, was one of the key strategic issues for the group's tobacco business, so I understood that to be inclusive within wider, general terms.
Q. And that applied to Brown & Williamson as part of the group's tobacco business; right?
MR. CORRIGAN: Well object to the form. We've already established prior it was part of the BAT Group, so it's self-evident.
A. Well it was certainly --
By the time I sat on the tobacco strategy review team, the membership included -- was -- was rather wider, included either the chief -- I think it included the chief executive of Brown & Williamson and/or the chief executive of BATUS. Usually both of them were there, I think one of them in attendance and the other one as a member. So certainly in relation to Brown & Williamson, Brown & Williamson was part of the tobacco operations of the group.

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Q. And it was in 1984; wasn't it, sir?
A. It was part of the tobacco operations group?
Q. Yes.
A. Yes.
Q. Okay. At the time of this initial meeting in 1984, was Mr. Bruell chairman of BATCO?
MR. CORRIGAN: Asked and answered. But go ahead, tell her again.
A. That -- that was my recollection.
Q. Okay.
A. Yes.
Q. I'm sorry, I just couldn't remember.
It would be fair to say at this time that despite the fact that this committee had been formed, BATCO continued to be responsible for providing information between the CAC companies; right?
MR. CORRIGAN: Objection, the witness has not characterized the TS -- the tobacco strategy review team as a committee. That was in your question. That's why I'm objecting.
MS. WIVELL: All right. Let me --
MR. CORRIGAN: Why don't you rephrase the question to "team."
MS. WIVELL: -- rephrase the question.
Q. Would it be fair to say that at the time this

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tobacco strategy review team was formed, BATCO continued to be responsible for providing information between the CAC companies?

A. Yes.

Q. Was BATCO also responsible for ensuring -- no, strike that.

Was BATCO charged by B.A.T Industries to coordinate G.R. & D.C. and the research and development of the CAC companies at that time?

MR. CORRIGAN: At what time are we talking about now? You already covered '81, so are we now talking about a different time period?

A. Sorry.

Q. In 1984 and 1985, --

A. Uh-huh.

Q. -- was BATCO charged by B.A.T Industries with coordinating research and development of the CAC companies?

A. I don't know.

MS. WIVELL: Mr. Stirewalt, could you get out Exhibit 292, please.

(Exhibit 292 handed to the witness.)

BY MS. WIVELL:

Q. Exhibit 292 is a document entitle "TOBACCO RESEARCH IN BAT INDUSTRIES;" correct?

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Source: http://www.industrydocuments.ucsf.edu/docs/qpxd0001

A. Exhibit 292 is a -- is a draft, I note, entitled "TOBACCO RESEARCH IN BAT INDUSTRIES."

Q. And according to --

Have you read this document before, sir?

A. No, I have not.

Q. All right. Why don't you take a moment and read the first page, if you'd be so kind.

A. Okay. I find it difficult to read the bottom paragraph.

MR. CORRIGAN: Yeah. Let the record reflect that the production stamp sort of blocks out some of the text at the bottom of the page. But with that understanding, if you have questions on that language, I'm sure we can try to decipher it.

BY MS. WIVELL:

Q. Now sir, I have -- I think I'd asked previously about -- strike that.

The document begins by saying, "BATCo has been charged by BAT Industries to define and to progress toward R&D objectives which will give BAT a competitive lead in the market place;" correct?

A. Yes, it does.

Q. Does that accurately state what you understand BATCO's charge was by -- from B.A.T Industries board?

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MR. CORRIGAN: In 19 -- in March of 1985?

MS. WIVELL: Yes.

A. We're -- we're talking about --

Sorry, this is April '85.

MR. CORRIGAN: I'm sorry, April '85.

A. Yeah, I'm -- I'm looking at the document here which purports to describe tobacco research at B.A.T Industries. I wasn't at B.A.T Industries, or BATCO for that matter, in April of 1985, I was at Souza Cruz in 1985, so I wasn't personally involved with this. So I'm -- I'm deducing from the paper itself, and quite honestly, when I make those kind of deductions I'm used to looking at the final paper rather than a draft, and I usually don't make deductions from draft paper, I usually make them from the final paper, so I wonder if you have the final paper.

Q. I'm sorry, sir. In the deposition I get to ask the questions, --

A. Oh.

Q. -- you get to answer them. So let me go back and re-ask my question.

Does that accurately state what you understand BATCO's charge was from B.A.T Industries board?

A. I had no particular understanding, as of April

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1985, as exactly what BATCO's charge was.

Q. So you have no information to dispute what's written here.

A. I have no --

MR. CORRIGAN: Objection to form.

A. -- information to dispute or confirm.

Q. I guess what I'm trying to understand, and perhaps you won't be able to help me on this, is when the tobacco strategy review team was established, did BATCO's role with responsibilities to research change?

A. Well --

MR. CORRIGAN: Well I object. He's already testified he -- Mr. Broughton wasn't on the tobacco strategy review team when it was established. But with that proviso, you can answer.

A. Actually what I was trying to say is -- is that I wasn't on the tobacco strategy review team, I wasn't at B.A.T Industries -- B.A.T Industries in those times, I wasn't at BATCO either. I had no responsibility or even involvement in the research or the tobacco strategy review team, which I only got involved with some five years after this, so I'm not really sure I can be very helpful.

Q. All right.

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Source: http://www.industrydocuments.ucsf.edu/docs/qpxd0001

(Plaintiffs' Exhibit 496 was marked for identification.)

BY MS. WIVELL:

Q. Sir, showing you what's been marked as Exhibit 496, this is a "SECRET" memo entitled "BATCo RE-ORGANISATION;" correct?

MR. BEZANSON: Object to the form.

MR. CORRIGAN: Object to the form, because I'm not sure whether you used lower- or upper-case --

MS. WIVELL: The objection has already been stated.

MR. CORRIGAN: I'll have my objection on the record and I'll have it now.

MS. WIVELL: Then all you have to say is objection, sir, and not take up the time.

MR. CORRIGAN: No, I'm objecting to the form, and therefore I need to state the grounds.

It's unclear on the transcript whether you're talking upper-case or lower-case "S." That's my objection.

You can rephrase it if you choose, or keep the question at your own peril.

THE WITNESS: Sorry. Could I just have the question?

MR. CORRIGAN: Now you have no idea what

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Source: http://www.industrydocuments.ucsf.edu/docs/qpxd0001

the question is.

MS. WIVELL: Let me rephrase it.

Q. Sir, Exhibit 496 is a "SECRET" memo entitled "BATCo RE-ORGANISATION;" correct?

MR. CORRIGAN: Same objection.

A. I'm not sure what it is.

I have to say it is quite unusual to see a document like this without any heading, without any note paper heading, without it being clear as to what it is. It's -- what it says on it is "Aide Memoire," but it doesn't say -- doesn't have any -- anything in here which gives a kind of authenticity to know what it is.

Q. It says "SECRET" at the top with a circle around it; doesn't it, sir?

A. It does say "SECRET."

Q. If we turn to the end of the document, it's dated April 24th, 1985; right?

A. It is dated 24th of April, 1985, correct.

Q. And the Bates number is 109070965 as its beginning number; correct?

A. I think that's correct, yes.

Q. This is a memo signed Alan Heard; right?

A. You're using the word "memo." It doesn't say "memo." It is -- it is a document signed by Alan

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Heard.

Q. All right. What was Alan Heard's position?

A. On the 25th of April 1985, I don't know.

Sorry. 24th of April 1985. Still don't know.

Q. Did you understand that he eventually became coordinator of group R&D for BATCO?

A. Let me say I certainly know he held eventually a senior position in group research. Whether the role was the one you described as coordinator --

I'm sorry, what was the role you described it as?

Q. Coordinator, sir.

A. I don't know whether he was coordinator.

Q. Could you turn to the third page of Exhibit 496. There is an organizational chart; isn't there, sir?

A. There is.

Q. And it shows in the top box up in the left, "Co-ordination of Group R&D, BATCo, A. L. Heard;" right?

A. That's what it says.

Q. All right. Now if you turn back to the first page of the document, there is a heading "Changes in Group Research;" right?

A. There is.

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Source: https://www.industrydocuments.ucsf.edu/docs/qpxd0001

Q. Have you read this document, sir?
A. No, I have not.
MS. WIVELL: Why don't we go off the record and you can read it.
THE REPORTER: Off the record, please.
(Discussion off the record.)
BY MS. WIVELL:
Q. Sir, you've now read Exhibit 496; right?
A. Yes, I have.
Q. And it outlines a reorganization of research and development activities for the B.A.T Industries tobacco group; doesn't it?
A. It outlines principally changes in Southampton. This is --
It's written by Alan Heard. It appears to be directed mainly at the employees of the Group Research & Development Center in Southampton. That's what it appears to be. It doesn't make it quite clear because it covers -- it's actually headed "BATCo RE-ORGANISATION," but refers to a reassessment involved with Millbank, but then doesn't go on to explain that one, but also a reassessment of the role of G.R. & D.C. So most of this is actually -- seems to be an announcement to people within G.R. & D.C.

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Q. All right. Just so we're clear here, it discusses the reorganization of G.R. & D.C.; doesn't it?

A. Yes, it does.

Q. All right. Now on the first page it talks about the history of G.R. & D.C.; doesn't it, sir?

A. It briefly mentions the history.

Q. And it says it was established 30 years ago as the tobacco research center for B.A.T.; right?

A. Yes, it does.

Q. And you don't have any evidence as you sit here today to dispute that; do you?

MR. CORRIGAN: Object to the form.

A. No, I don't.

Q. It goes on to say its prime role has been to carry out fundamental or building blocks research; right?

A. Correct.

Q. All right. And did you understand that that was one of the roles of G.R. & D.C.?

A. Certainly one of its roles.

Q. And that research was relating to tobacco; wasn't it?

A. Correct. It's in relation to tobacco.

Q. Now the document goes on to talk about some of

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that research would now be undertaken by the CAC companies; right?

A. Yes. It talks about effectively what you might call a decentralization of some of that research.

Q. And this decentralization was going to be coordinated by B.A.T Industries and BATCO's R&D program; right?

A. I'm not sure --

Could you show me where it says it was going to be coordinated by B.A.T Industries?

Q. Well it says at the bottom of the second paragraph on -- or the first paragraph on page two, "A comprehensive, co-ordinated BAT Industries/BATCo R&D programme will be agreed with the CAC companies by end 1985;" right?

A. I'm sorry. You've lost me.

Q. All right.

A. Will you tell me --

MR. CORRIGAN: There (pointing to document).

THE WITNESS: All right, thank you.

A. Correct.

Q. And did you understand that by the end of 1985, a coordinated B.A.T Industries/BATCO R&D program was agreed by the CAC companies?

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A. I think if you'd just step back a moment, what you'll see is what it says on the first page in the middle, just under the two sentences you read out before, is, "The current research programme is largely determined by the CAC companies." Okay? And goes on to say, "Little of this fundamental research has immediate relevance to the needs of the majority of BATCo's Operating Companies." So when it goes over -- over page and -- and you point out the sentence which says, "A comprehensive, co-ordinated BAT Industries/BATCO R&D programme will be agreed with the CAC companies in May 1985," I see that as a continuation of the process and the advisory role of the CAC companies in ensuring that what is being done at the center is coherent with the requirements of the CAC companies.

Q. But just so we're clear, this program was a coordinated B.A.T Industries/BATCO program; right?

MR. CORRIGAN: Object to the form.

A. I see this as --

My understanding of this would be it would be a program which would be set by -- the overall policy would be set by B.A.T Industries on advice from the CAC companies. The coordination of the program I would expect to be a BATCO responsibility.

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Source: http://www.industrydocuments.ucsf.edu/docs/qpxd0001

Q. Now it goes on to say at point three, quote, "Make a contribution to the fundamental tobacco research effort of the BAT Industries Group;" right?
A. Yes.
Q. All right. And says it's referring to what will be the role of G.R. & D.C. in the future after this reorganization; right?
A. That's right. And it goes on to say that "This -- This work," by which I think one means the fundamental tobacco research work, "will be integrated in a Group Research Programme covering all the major laboratories."
Q. And sir, you understand that the reorganization that's described in this document did take place; didn't it?
A. Well I actually think it did. The research is under --

Like I said once before, research, like most of the other departments within the group, undergoes reorganizations from time to time. This one seems like just another reorganization, and I have no reason whatsoever to believe it didn't take place. It seems entirely in keeping with my later understanding of the research structure.
Q. And did you also understand that at that time

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the BATUKE board assumed some responsibility for G. R. & D. C.'s operation?

A. Only from some of the things that are written into this document.

Q. All right. And if we go back to the third page, we see on the organizational chart that on a line -- on a horizontal line with the "Co-ordination of Group R&D, BATCo, A. L. Heard," we see the "BAT(UK&E) BOARD" listed as having line responsibility; right?

A. Yes, we do.

Q. And you understand that the BATUKE board there after 1985 did have responsibility for group research and development.

MR. CORRIGAN: Object to the form.

A. Yeah, my -- my -- my --

I'm not sure. My doubts are only that I'm not sure whether it started in 1985 or whether it already had responsibility in 1985.

(Plaintiffs' Exhibit 497 was marked for identification.)

BY MS. WIVELL:

Q. Sir, showing you what's been marked as Plaintiffs' Exhibit 497, this is a document bearing the signature of Alan Heard dated July 5th, 1985; right?

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Source: http://www.industrydocuments.ucsf.edu/docs/qpxd0001

A. Correct.
Q. And it's entitled "TOBACCO RESEARCH & DEVELOPMENT IN BAT;" right?
A. Yes, it is.
Q. Have you seen this document before?
A. No, I have not.
MS. WIVELL: Why don't we go off the record while you read it.
THE REPORTER: Off the record, please.
(Discussion off the record.)
BY MS. WIVELL:
Q. Sir, Exhibit 497 outlines some changes in the tobacco group strategy for tobacco-related R&D at -- in the BAT Group; right?
A. Yes, it does.
Q. That was a very -- very poorly worded question. Let me rephrase it.
Exhibit 497 outlines changes in tobacco-related R&D for the BAT Group; doesn't it?
A. It outlines changes in the future group strategy for tobacco-related R&D.
Q. All right. And it --
Under this strategy, research was going to be decentralized; right?
A. Fundamental research was going to be

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decentralized.

Q. And fundamental research was no longer going to be centralized at Southampton G.R. & D.C.

A. That's correct.

Q. And in fact, more of the research responsibilities were going back to companies like Brown & Williamson; right?

A. Brown & Williamson, Interversa, IMASCO, Souza Cruz and AMATIL.

Q. The CAC companies.

A. The CAC companies.

Q. And at the same time, G.R. & D.C. was going to be restructured and transferred to BATUKE.

A. Correct.

What that to me is saying is that the G.R. & D.C., rather than now being the group research and development center, would become the operating research and development arm of the BATUKE business.

Q. And you understood that change occurred; right?

A. Yes.

Q. All right. Yet despite the fact that projects were decentralized, it would be fair to say that they continued to be coordinated from -- by BATCO.

A. The very fact that they were decentralized created the need, if it hadn't been there before, to

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coordinate. So yeah, it certainly says that coordination of the group program, now the decentralized group program, would be carried out by Alan Heard.

Q. And he was going to continue to be a BATCO employee.

A. That's my understanding.

Q. And you understood that -- I'm sorry, strike that.

And one of the reasons for this was to increase market share and profitability; right?

MR. CORRIGAN: Object to the form of the question.

A. One of the reasons for what?

Q. This reorganization.

A. Oh. Well, I don't think it actually says that.

MR. CORRIGAN: Do you want to draw the witness's attention to a specific provision in the letter?

MS. WIVELL: I'm looking at the second-to-the-last paragraph, sir.

A. Yeah. I see the second-last paragraph, but I --

Could you repeat your question?

Q. All right.

A. I don't think that's what it says.

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Q. Is it fair to say that one of the reasons that group research was decentralized was as an attempt to improve market share or profitability?

A. That's not my understanding.

If I could explain that a little bit. My understanding was that fundamental research had been done in Southampton, and what is called here applied research projects had been done in CAC countries' own research laboratories. So there was already a program of applied R&D projects directed towards improving market share or profitability.

It's my understanding what he's trying to do here is to clarify doubts that had arisen in people's minds to ensure that they appreciate that the decentralization of the fundamental research has not affected the fact that there will continue to be, in the group research program, R&D projects applied with the same ongoing intent of improving market share or profitability. That, is my understanding, had always been part of the R&D program as carried out in the CAC countries' R&D centers.

Q. Now it goes on to say in that paragraph that major fundamental research projects were aimed at greater understanding of the science which underpins our business. That's a paraphrase of that

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sentence; isn't it?

MR. CORRIGAN: Well I think it's --

Go ahead and answer. No objection.

A. I have to find the sentence you're referring to.

Q. That --

The second-to-the-last paragraph --

A. Second-to-the-last paragraph.

Q. -- ends with a reference to fundamental research being aimed at greater understanding of the science which underpins our business; right?

A. Yes. It will also have major fundamental research projects aimed --

Again, what I think he's trying to do is reassure people that this is a new form of carrying out the work, but the fundamental research will continue and the applied research will continue, but now on a decentralized basis rather than a centralized basis.

Q. Okay. But just so we're sure here, you would agree that it was one of the aims of B.A.T Industries to understand the science of smoking.

MR. CORRIGAN: Object to the form of the question. The question has been based on a BATCO communication. But you may answer.

A. It is my understanding that the tobacco

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operations of the group have always aimed at getting a greater understanding of the science related to tobacco.

Q. And that science included smoking-and-health-related issues; didn't it?

A. It would include smoking-and-health-related issues.

Q. Did the BAT Group companies believe it was their duty to keep up with the scientific knowledge about smoking-and-health-related issues?

MR. CORRIGAN: Objection to form.

A. Yeah. I'm not quite sure what you're trying to get at. I mean it seems to me that there was always a policy to keep up with the science. There had been lots of money spent over many years of keeping up with the science. The need to keep up with the science -- as far as I know, there's never been any question, so I'm not sure I understand the -- the point of your question.

Q. Well, you're here today speaking as the CEO of B.A.T Industries; right?

A. Correct.

Q. Okay. Let me ask you this: Today as you sit here, do you believe it is your company's responsibility to keep up with the science relating

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to smoking and health?

MR. CORRIGAN: Object to the form of the question with respect to the phraseology "your company."

A. As the CEO of B.A.T Industries, the answer is no.

Let me go back a little bit. B.A.T Industries is an investment holding company. It would not be within the normal framework of B.A.T Industries as an investment holding company to keep up with the science of tobacco. It would be within the normal framework of reference for the tobacco operating parts of the group to keep up with the science, and therefore for B.A.T Industries to set as part of its framework of policies a requirement and an expectation that those tobacco operations should keep up with the science in relation to tobacco, but not as a part of the function of the company itself, "the company" being B.A.T Industries.

Q. Let me under -- see if I understand this. You used the term "normal framework of reference" in your last answer. Are you referring to responsibilities of -- in -- when you're saying "normal framework of reference" there?

A. What I'm referring to is and what I've said

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before is that with the B.A.T Industries group, what B.A.T Industries board does is to set policies. It doesn't carry out the policies because it doesn't carry out the operations. So it sets the framework, yes, it does set the framework in terms of reference in which it would expect the operating groups to operate.

Q. Well it is true, isn't it, that the B.A.T Industries board has set policies on smoking and health --

A. Correct.

Q. -- for a number of years; right?

A. Correct.

Q. All right. Well if B.A.T Industries board does not keep up with the research or the scientific knowledge concerning smoking and health, how does it assure itself that its policies concerning smoking and health are correct?

MR. CORRIGAN: Object to the form of the question. It seems to imply that B.A.T Industries has an obligation to have scientists on its own staff when he explained how it works. But go ahead and answer.

MS. WIVELL: I object to your objection.

A. Could you repeat the question, please?

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Q. Certainly.

If B.A.T Industries board does not keep up with the smoking -- I'm sorry, strike that.

If B.A.T Industries board does not keep up with the research or the scientific knowledge concerning smoking and health, how does it assure itself that its policies concerning smoking and health are correct?

MR. CORRIGAN: Same objection.

A. The B.A.T Industries -- B.A.T Industries board is comprised of a number of people. They break down into fundamentally three groups of people. There are what we call non-executive directors, which I think in America are more normally called independent directors; in other words, they're not employees of the group. They sit on the board, but they have other responsibilities in life not to do with B.A.T. Then there are executives who are executives of B.A.T Industries P.L.C. itself, like myself, like the group finance director who's a B.A.T Industries employee working at Windsor House in the center full time. Then there are other executives who are the number ones, the chief executive officers of operating groups. Not all operating groups. And at different times in our history, some operating groups have been

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represented on the board, some have not; it's not de facto as the head of an operating group.

So what I'm trying to say is to describe the kind of people who sit on B.A.T Industries board. There are no scientists included in that group of people. There is no science department within B.A.T Industries P.L.C. There is no research and development function within B.A.T Industries P.L.C. That would not be the role of an investment holding company.

So the -- the role of the board is to set the policies and to -- and, as you say, to try to get itself reassured that those policies are being properly implemented.

That process is done through a couple of mechanisms, really. There is an annual presentation to the board of B.A.T. P.L.C. -- B.A.T Industries P.L.C. in relation to science in its wider framework. It could be in relation to smoking issues, it could be in relation to any other part of the science, or both at the same time. So there is an annual review, report shall we say, that goes to the -- to the Industries board to outline some of the key issues which have been addressed at the moment, talk about changes in policy or recommendations of

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change in policy, or maybe specifically about some recent event or events that have occurred since the last time to update the board from the scientific viewpoint. So then scientists employed by the group would be present at that meeting, making some kind of presentation. So that's part of the process.

Equally, the managing director of -- today we have the business structured where we have a managing director of the tobacco business. That's not always been the case. As you know, we've had several different parts of the group. That person today happens to sit as a member of the board. So again, if there were any matters arising which were of significance to the B.A.T Industries board, then it would be within his normal monthly remit to raise issues that are to be drawn to the attention of the board. That would be part of his remit.

MR. CORRIGAN: I note it's --

Are you finished with your answer?

MR. CORRIGAN: Yes.

MS. WIVELL: I just have a couple of more questions along this line, then we can break.

BY MS. WIVELL:

Q. Sir, have you ever seen any of the smoking-and-health documents that were generated by

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G.R. & D.C.?

MR. CORRIGAN: Well, let me object to the form of the question. If you're capable of answering that question, go ahead.

A. "I don't know" I think is the answer. I don't know what's been generated by G.R. & D.C.

Q. Well, have you ever seen any of the scientific studies that were generated by the BAT Group on the issues of smoking and health?

MR. CORRIGAN: Same -- same objection. The breadth of the question is almost mind-boggling in its scope. But you may answer. Go ahead.

A. Yeah, I find it a difficult question to answer. But as a -- as a generalized answer, let me just say, and repeat what I said perhaps somewhat earlier, is that I'm not a scientist. If somebody showed me a scientific study, I frankly wouldn't understand it. So even if I had seen one, the chances of having read it is fairly remote.

Q. All right. So would it be fair to say that you don't recall reading any research regarding smoking and health that was done by the BAT Group?

MR. CORRIGAN: Same objection.

A. That -- that's a very wide question.

Q. Do you recall any as you sit here today?

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MR. CORRIGAN: Same objection.

A. I'm not trying to be difficult, but can you help me by explaining what you mean by "research?"

Q. Well, research on smoking-and-health-related issues done by one of the BAT Group organizations.

MR. CORRIGAN: Same objection.

A. Research studies?

Q. Yes, sir.

A. The study itself.

Q. Yeah.

A. No, I don't think so.

MS. WIVELL: All right. Why don't we break for lunch.

THE REPORTER: Off the record, please.

(Luncheon recess taken at 1:04 o'clock p.m.)

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AFTERNOON SESSION

(Deposition reconvened at 2:32 o'clock p.m.)

BY MS. WIVELL:

Q. Mr. Broughton, before lunch we were talking about how the B.A.T Industries board learns about smoking-and-health-related issues. Do you remember that subject generally?

A. Yes, I do.

Q. I think you said that there was an annual presentation in relationship to science; is that right?

A. Correct.

Q. And does that mean that once a year someone from one of the BAT Group companies would come in and talk about smoking-and-health-related issues?

A. Not necessarily. What it means is that once a year people from within the B.A.T. Group of tobacco companies -- maybe one person, it may be three or four people -- will come in and talk to us on a subject or subjects relative to science. It may not necessarily be on a smoking-and-health issue; more often than not it has been.

Q. Now you said, I think, that there was also an annual review. Do you recall that?

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A. That -- that was what I was referring to. That was the annual review as such.
Q. Was there a written annual review on smoking-and-health issues?
A. No. There's no formal written paper or anything like that. It -- it's a -- it's a presentation rather than a written paper.
Q. An oral --
A. Well it's oral, but it may include slides or overheads or something like that, as the case may be, to add -- you know, to make the point.
Q. Who has given these presentations?
A. Who has given these presentations?
It's a wide range of people over the years. We referred to Dr. Thornton earlier, came up in our earlier conversation, he's certainly given presentations. Graham Read, who is the head of -- being careful of what he is, actually. I think he's the head of research now within British-American Tobacco, has given presentations. Who else? There have been a range of other scientists, but I'm not sure I can recall their names.
Q. Did Dr. Blackman ever make a presentation to the board?
A. Not since I've been on the board. He may or may

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not have done before I was on the board.
Q. How about Mr. Heard?
A. Yes, I think Mr. Heard has been involved in some of them, yes.
Q. Anyone else that you can recall?
A. I think --
Yes, I think Dr. Sharon Boyse, I think she's given presentations as well. She's been involved, I think.
Q. Anyone else?
A. No other names come to mind.
Q. Now were you given handouts, printed materials as part of these annual presentations?
A. Not that I recall today.
Q. Now you also mentioned in your earlier discussion that if there were any matters of significance to the B.A.T. board in normal monthly remits, they would be raised. Do you recall that, sir?
A. Yes, I do.
Q. All right. First of all, what's a normal monthly remit?
A. I'm sorry. What that's supposed --
What I refer to there is as a -- as a standing agenda item on the board will be a -- let me go back

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a minute.

As of today a standing agenda item on the board would be a monthly report of any significant issues arising from any of the three operating groups. At the moment we run the business through three operating groups, but as I've described to you, historically there's been all sorts of different structures. So in the past it hasn't been a board agenda item necessarily. But the previous chairman, for example, would go around the table and say to each person, "Was there anything you want to inform the board about?" for example. So if there was a -- a significant event of some sort, that would be reported.

Q. And -- and just so we're clear here, the board you're talking about is the B.A.T Industries board; right?

A. That is the B.A.T Industries board. And it could be a significant event on -- whether it's on tobacco or financial services or whatever part of the business somebody is referring to.

Q. Now we were talking a bit earlier about the fact that the B.A.T Industries board from time to time issued policy on the smoking-and-health issues; correct?

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MR. CORRIGAN: Object to the form of the question. I don't believe the witness used the word "issued," but you may answer.

A. Well I -- I think what I said was the B.A.T Industries board agrees and adopts policies on a number of different areas, really areas which one might classify under the term "issues." Say smoking and health would be one. I think I used environmental issues. Safety-and-health work issues. There's a range of issues in which we do adopt policies which are, I think I used the word, a framework, really, for the operating companies and operating subsidiaries to use as a framework in the implementation of the wider policy.

Q. Now sir, one of the reasons that the board issued -- or established policies on smoking and health was to ensure that all BAT Group companies gave uniform answers to similar questions on the smoking-and-health issue; correct?

A. I'm not sure that that would be a fair characterization. Uniform answers --

I think con -- consistent answers. I mean "uniform answers" implies that it's an identical answer. "Uniform" tends to be identical. I think the policy was one to ensure that there was a proper

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degree of consistency around the group.

(Plaintiffs' Exhibit 498 was marked for identification.)

BY MS. WIVELL:

Q. Sir, showing you what's been marked as Plaintiffs' Exhibit 498, this is a document dated May 3rd, 1974; correct?

A. Correct.

Q. Bates numbered 100428581 as its beginning Bates number; right?

A. Correct.

Q. And would you turn to the second page of the document. It's headed "SMOKING AND HEALTH;" correct?

A. I think that's correct, yes.

Q. All right. And if you turn to the fifth page of the document and direct your attention to point 16, doesn't -- or I'm sorry.

If you turn to the fifth page of the document, the top of the page says "POLICIES," doesn't it?

A. There is a page which says "POLICIES."

Q. And then point 16 says, "To ensure that all B-A.T. Companies give uniform answers to similar questions on the smoking and health issue;" correct?

A. That is what --

MR. CORRIGAN: Let me just note an

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objection or notation that there seems to be some handwritten interlineations in the language you just read. You have correctly read the textual typewritten portion.

A. It's --

I might say, you've directed me to one specific part without me having the slightest idea what this document's about. And the document itself, as I noticed with the previous document, has no heading in terms of note paper. I don't know which company it's talking about, whether it's any part of the organization this is referring to.

Q. Move to strike as non-responsive.

Sir, my question is: Point 16 says, "To ensure that all B-A.T. Companies have uniform answers" -- or I'm sorry. Strike that.

Point 16 says, "To ensure that all B-A.T. Companies give uniform answers to similar questions on the smoking and health issue;" correct?

MR. CORRIGAN: Well, please let me note an objection. Your prior questions were predicated on seeking to establish what B.A.T Industries did. We have not identified that this document has anything to do with the board of B.A.T Industries.

MS. WIVELL: I object to your violations of

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the court's order.

MR. CORRIGAN: Well that --

MS. WIVELL: If you have an objection, please say "objection," and then we can move on.

MR. CORRIGAN: I stated my objection in full conformity with the court order. You must be fair to the witness.

BY MS. WIVELL:

Q. Now sir, the smoking-and-health policies that were established by the board were written policies; weren't they?

A. Policies of B.A.T Industries, yes, there have been written documents.

Q. All right. And as a matter of fact, even before B.A.T Industries was named that, British-American Tobacco Company had written policies of its board concerning smoking-and-health issues; right?

A. Quite probably, but I'm not sure of any.

(Plaintiffs' Exhibit 499 was marked for identification.)

BY MS. WIVELL:

Q. Sir, showing you what's been marked as Plaintiffs' Exhibit 499, this is a document headed "STRICTLY CONFIDENTIAL, TO ALL NO. 1s OF ASSOCIATED COMPANIES, SMOKING AND HEALTH;" correct?

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A. That's correct.
Q. All right. And have you seen this document before, sir?
A. No, I haven't.
Q. All right. If you turn to the third page of the document, there is a section that begins "BAT Policy;" correct?
MR. CORRIGAN: Excuse me, it's "B.A.T. Policy."
A. I'm sorry, I was just trying to get some idea what this document is. I can't figure it out.
Q. All right. Let me rephrase my question then.
If you'd turn to the third page of the document, there is a section that begins "B.A.T. Policy;" correct?
A. Correct.
Q. And it says there in paragraph one, "As indicated above, the over-riding policy of B.A.T. is to discourage and delay the process of restrictive legislative action by governments in every way possible so as to allow maximum time for research to establish the precise relationship between cigarette smoking and lung cancer and other diseases so that the possibility of any injury to the smoker's health can be diminished or eliminated;" correct?

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A. That is what it says.
Q. Now before this document was written, it had been B.A.T.'s policy to contest the validity of evidence against smoking and health; hadn't it?
MR. CORRIGAN: I'll --
Objection. This document predates Mr. Broughton. You may answer.
A. Well not only does this document predate me --
Well I don't know that it does because it doesn't, as far as I can see, have a date on it anywhere at all, so I have no idea what date this is written. Nor is there any indication to me what the policy was prior to this document.
Q. Well sir, if you turn to the top of page four, do you see at the beginning of the first complete paragraph the sentence, "While in the past it has seemed good sense for the industry to contest the validity of all the evidence against smoking (and may still be necessary to avoid damages in lawsuits), there is little doubt that the inflexibility of this attitude is beginning to create in some countries hostility and even contempt for the industry among intelligent, fair-minded doctors?"
A. Is that a question?
Q. Yes.

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A. What was the question?
Q. That's what that says; doesn't it?
A. Yes.
MR. CORRIGAN: Well the document -- you have read --
You have correctly read the document. You don't need the witness to tell you that.
Q. Sir, isn't it a fact that at the time this document was written, it was the policy of B.A.T. to contest the validity of all the evidence against smoking?
MR. CORRIGAN: That question was previously asked. I previously objected to it. I repeat the grounds.
MS. WIVELL: I object to your violation of the court's order. You did it all this morning and you're doing it again.
MR. CORRIGAN: I'm in full conformity with the courts order. I repeat the grounds.
MS. WIVELL: Please state the objection pursuant to the court's order and then we'll move on and not waste time.
MR. CORRIGAN: I've done that, so we are not wasting time. Next question.
BY MS. WIVELL:

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Q. Sir, isn't it a fact that at the time this document was written, it was the policy of B.A.T. to contest the validity of all the evidence against smoking?

MR. CORRIGAN: Same objection.

A. I have absolutely no idea whether that was the policy or not, and there's nothing in this document to lead me to that view.

Q. Well isn't it a fact that it is B.A.T Industries' position that smoking -- I'm sorry. Strike that.

Isn't it a fact that it is B.A.T Industries' position that causation has not been proved with regard to smoking and health?

A. Are we --

Are we moving into the current tense?

Q. Yes.

A. Nothing to do with this document.

Is it B.A.T Industries' position --

Q. Yes, that causation has not been proved with regard to smoking and disease.

A. Correct.

Q. And as a matter of fact, there is a written policy that has been in effect -- in effect for some time that states that; isn't that true, sir?

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A. Well I don't find that kind of statement a policy. There's been statements to that effect, but I would not define those statements as a policy.

MS. WIVELL: Mr. Stirewalt, could you get out Exhibit 317, please.

(Exhibit 317 handed to the witness.)

BY MS. WIVELL:

Q. Sir, showing you what has been marked previously as Exhibit 317, this is a document entitled --

MR. CORRIGAN: Excuse me, counsel, may I --

(Document handed to Mr. Corrigan.)

MR. CORRIGAN: Thank you.

BY MS. WIVELL:

Q. Sir, showing you what has been marked previously as Exhibit 317, this is a document entitled "TO ALL OPERATING GROUP CHAIRMAN/LIAISON DIRECTORS, LEGAL CONSIDERATIONS IN SMOKING & HEALTH ISSUES;" correct?

A. Correct.

Q. And the second paragraph says, "I should be grateful if you would ensure the widest possible circulation in your Operating Group of the Group policy on Smoking & Health Issues as summarized in the attached note." Right?

A. Correct.

Q. And you understand that the BAT Group policy as

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established by B.A.T Industries is summarized in the attachment, which is the second page of Exhibit 317.

MR. CORRIGAN: Objection, his prior answer was based on current policy. This is a March '84 document.

MS. WIVELL: I object to your continuing violation of the court's order. Please just say "objection."

MR. CORRIGAN: I'm entitled to state my grounds. I have done so succinctly. You may proceed.

A. I beg your pardon.

Q. All right. I'll rephrase the question.

You understand that the BAT Group policy as established by B.A.T Industries is summarized in the attachment, which is the second page of Exhibit 317.

MR. CORRIGAN: Repeat the objection.

A. It is my understanding from looking at the first page, but I haven't yet seen the second page, that the B.A.T Industries policy on smoking-and-health issues is summarized on the attached note.

Q. All right. And the third paragraph begins, "The Group's position is that causation has not been proved and that we do not ourselves make health claims for tobacco products;" correct?

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A. Would you allow me to read the document?
Q. Well can we just --
Can I direct your attention to the third paragraph of the second page.
A. I'd like to put it into context. Can I read the document?
MS. WIVELL: Fine. We can go off the record.
Q. You haven't read this document before, sir?
A. No.
MS. WIVELL: All right. We can go off the record while you read the document.
THE REPORTER: Off the record, please.
(Discussion off the record.)
BY MS. WIVELL:
Q. Sir, the third paragraph of the second page of Exhibit 317 begins, "The Group's position is that causation has not been proved and that we do not ourselves make health claims for tobacco products;" correct?
A. That is what it says. And I think it's very relevant to the previous paragraph.
Q. All right. And the previous paragraph ends with the sentence, "No conclusive scientific evidence has been advanced and the statistical association does

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not amount to proof of cause and effect. Thus a genuine scientific controversy exists." Right?

MR. CORRIGAN: That's a portion of the paragraph.

MS. WIVELL: I'm sorry. Let me -- I would like to rephrase the question so that counsel doesn't interrupt me.

MR. CORRIGAN: All right. Go ahead.

Q. And the previous paragraph ends with the sentence, quote, "No conclusive scientific evidence has been advanced, the statistical association does not amount to proof of cause and effect. Thus a genuine scientific controversy exists," close quote; right?

A. That is correct.

I would -- I would draw your attention, if I may, to the previous sentence, which I think is also relevant, where it stresses that it may be responsible for the alleged smoking-related disease or it may not; i.e., that's all part of the genuine scientific controversy that exists.

Q. Move --

A. And the position, as you say accurately, is pointed out, the position has not been proved.

Q. Move to strike the non-responsive portion of the

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answer.

Now sir, let me ask you this: Is the policy of the B.A.T Industries board today that causation has not been proved with regard to whether smoking causes disease?

A. Yes.

Q. And is it also the B.A.T. board's policy today that there is no conclusive scientific evidence of cause and effect between smoking and disease?

A. Sorry. Can I just go back and -- and repeat? I would say the group's position, not the group's policy. I -- I -- I don't see that the group has a policy. All right. That is the group's position in relation to the issue.

Q. All right. Is it the group's position today that no conclusive scientific evidence has been advanced that proves that smoking causes disease?

A. I think that's correct, yes.

Q. So would it be fair to say that the position that's set forth in Exhibit 317, which is actually dated 1984, is the same position that the B.A.T Industries board has established for the BAT Group companies today?

MR. CORRIGAN: Object to the form of the question.

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A. It is true that the position in 1984 and the position today is the same in that our position as a group is that causation has not been proved.

Q. Well sir, does B.A.T Industries take the position on behalf of the BAT Group companies that cigarette smoking does not cause cancer?

A. No.

Q. Well does B.A.T Industries take the position for the BAT Group companies that cigarette smoking causes cancer?

A. No. Both of those two positions would be entirely inconsistent with the position I've just expressed.

Q. All right. Well does the B.A.T Industries board deny that it has been scientifically established that cigarette smoking causes cancer?

A. Yes.

Q. Does the B.A.T Industries board deny that it has been scientifically established that cigarette smoking causes heart disease?

A. Yes.

Q. Does the B.A.T Industries board deny that it has been scientifically established that cigarette smoking causes arterial sclerosis?

A. Could I just go back for a minute to put this

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back in a general sense, because -- then we can carry on this for some time. But BAT Group's position is that there is a genuine scientific controversy in relation to smoking and various diseases, cancer, lung cancer, heart disease and various others, that the evidence on which that controversy rests is epidemiological evidence, not scientific evidence, and that despite the massive amount of money that is being spent on trying to establish the scientific nature of any possible cause and effect, that that causation has not been proven. So yes, our position is, I said, that we do not believe that scientific causation has been proven in relation to all of those diseases. And I'm sure you can list a lot more if you want to, but the answer is really the same each time.

Q. Move to strike as non-responsive.

Sir, my question is: Does B.A.T Industries deny on behalf of the BAT Group that it has been scientifically established that cigarette smoking causes arterial sclerosis?

MR. BEZANSON: Object to the form.

A. I'm getting confused. Could you help me here?

Q. I'll rephrase the question or I'll restate it.

Does B.A.T Industries deny on behalf of the BAT

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Group that it has been scientifically established that cigarette smoking causes arterial sclerosis?

MR. BEZANSON: Same objection.

MR. CORRIGAN: Object to form.

A. The B.A.T Industries' position is that there is no scientific proof of causation between smoking and arterial sclerosis, was it?

Q. Yes, sir.

A. Correct.

Q. And B.A.T Industries denies that it has been scientifically established that cigarette smoking causes strokes; doesn't it?

A. Yes.

Q. And B.A.T Industries denies that it has been scientifically established that cigarette smoking causes emphysema; right?

A. I -- I don't understand quite why you moved to strike my last answer -- or an earlier answer as not responsive because I don't understand the -- the legalities or -- I'm sure you have a very good reason for that. But it does seem to me that we're getting into something of a repetitive process.

I'm trying to explain to you that there is a large amount, recognized large amount of epidemiological evidence, you could call that the

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statistical association, but that epidemiological evidence does not amount to proof of cause and effect, it is indicative only, and that the group's position is, therefore, that scientific causation has not been proven between smoking and -- I can't remember which disease you're now on.

Q. Sir, I'm going to move to strike as non-responsive.

My question is simple: Does B.A.T Industries deny that it has been scientifically established that cigarette smoking causes emphysema?

MR. CORRIGAN: Objection.

A. Yes.

Q. Does B.A.T Industries deny that it has been scientifically established that cigarette smoking causes chronic obstructive pulmonary disease?

A. You know, I think the answer is probably yes to that one as well, but I can't remember of ever actually seeing that one written down in print.

Q. I'm having trouble hearing you again, sir. Could --

A. I'm sorry.

Q. Could I ask you to speak up.

A. I'm just having trouble with the repetition.

Q. Sir, you would agree it's important for smokers

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to have an open airing of all of the facts concerning smoking and health; wouldn't you?

A. An open hearing?

Q. Airing.

A. Airing. I beg your pardon.

Q. Airing.

A. Do I agree that it's important that -- that smokers have --

Q. All the facts --

A. -- an open airing --

Q. -- regarding smoking and health.

MR. BEZANSON: Object to the form.

MR. CORRIGAN: Object to the form.

A. I'm not sure that I understand what you mean by "facts." I would state that the answer is probably no, if I understand what you mean. But maybe you could explain what you mean.

MS. WIVELL: Well, Mr. Stirewalt, could you get out Exhibit 418.

(Exhibit 418 handed to the witness.)

BY MS. WIVELL:

Q. Exhibit 418 --

MR. CORRIGAN: Counsel, counsel --

MS. WIVELL: I'm sorry, I don't have a copy.

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MR. CORRIGAN: All right. Well then I'll look on with the witness. All right?

MS. WIVELL: Fine.

Q. Exhibit 418 is a document issued by The Tobacco Institute entitled "The Smoking Controversy: A Perspective." Do you see that, sir?

A. I see that.

Q. All right. And it's dated December 1978, according to the date on the front; right?

A. Correct.

Q. Would you turn to the page that ends with Bates number 594. It's actually headed "CONCLUSION."

MR. CORRIGAN: This is a document not -- not from B.A.T.'s files, I take it, but from The Tobacco Institute's files?

MS. WIVELL: Yes.

MR. CORRIGAN: Thank you.

Q. Would you read along with me when I read the first paragraph. It says, "Choice:

"A fading freedom.

"At heart, the issue is one of personal rights. Both smokers and non-smokers have a right to an open airing of the facts, not the monolithic mindset purveyed by the anti-smoker agencies;" correct?

A. Correct.

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Q. And then -- I'm sorry. Then it goes on to say, "And they have the right to decide for themselves;" right?

A. Correct.

Q. Okay. Now do you agree with that statement?

A. Yes. Essentially, I agree that the issue is one of personal choice --

Q. Well --

A. -- and that the smokers and non-smokers have a right to know the facts.

Q. All right. Because without the facts, one can't make an informed decision about whether or not to smoke; right?

MR. CORRIGAN: Object to the form.

A. I think that's not really necessarily true, because I think you can take a personal view without knowing the facts themselves. I think --

One of the things which we do as a group is we accept entirely that smoking is a risk factor to be taken into account in relation the all of these various diseases you talked about. Now I think the smokers, and non-smokers for that matter, do not actually need to be aware of all of the facts. They do need to be aware that it is a risk factor, and whether it's proven or unproven, they should still be

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conscious of the fact that it is a risk factor, because they may well be running a risk of health. Therefore, you know, I think the detail is actually less important for all the smokers to know than the fact there are -- there are obvious factors involved and they should make certain assumptions on those risk factors and make up their minds themselves.

Q. Well sir, it's important for smokers to have accurate facts about smoking from the companies that produce and market the cigarettes; isn't it?

A. Oh, I would like to see smokers have accurate facts, not just from the companies who produce the cigarettes, I'd like to see them have accurate facts from everybody else as well.

Q. And you would agree, sir, that it is the duty of the companies that produce and market the cigarettes to make accurate public statements about their cigarettes; right?

MR. CORRIGAN: Object to the form.

A. I'm not sure quite what you mean about "accurate public statements" --

Q. Well --

A. -- "about their cigarettes."

Q. I'm sorry. What are you having trouble with about that question, sir?

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MR. CORRIGAN: He just told you. He said what he was having trouble with.

A. Would you read back the question?

Q. Yes, sir.

You would agree, sir, that it is the duty of the companies that produce and market the cigarettes to make accurate public statements about those cigarettes.

MR. BEZANSON: Object to the form.

MR. CORRIGAN: Same objection.

A. I would expect companies to make accurate public statements.

Q. Smokers have a right to rely on the companies whose cigarettes they smoke to make accurate statements about their products; right?

MR. CORRIGAN: Objection.

A. Sorry. Could you read it back.

Q. Smokers have a right to rely on the companies whose cigarettes they smoke to make accurate statements about those cigarettes; right?

MR. CORRIGAN: Objection.

A. If you take as a generalization that statement, I think any operating subsidiary that manufactures cigarettes should be making accurate statements about those cigarettes. It should not make knowingly

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inaccurate statements. It should certainly make statements which it believes to be accurate at the time they make them.

Q. And if they made knowingly inaccurate statements about the products that they were selling, the cigarettes they were selling, that would be a breach of their duty to the cigarette smokers; wouldn't it, sir?

MR. CORRIGAN: Objection, double hypothetical.

A. That's a --

It would depend on the nature of it, obviously.

Q. Well let's take smoking and health. If a cigarette manufacturer knowingly made inaccurate statements about the cigarettes it was selling, that would be a breach of its duty to the cigarette smokers; wouldn't it, sir?

MR. CORRIGAN: Same objections, same grounds.

A. If a cigarette manufacturer made inaccurate statements -- I'm trying to think of a kind of inaccurate statement it would make, because I'm trying to think --

You're obviously leading somewhere, so I'm trying to think what kind of inaccurate statement

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does a cigarette manufacture make. It doesn't make any statements about its products at all except those that are written on the pack, some of which, you know, include, for example, health warnings. Now those statements, for example, are usually -- if you take the United States as an example -- mandated by the U.S. Surgeon General. Certainly in that sense they are a statement from the U.S. Surgeon General.

I'm -- I'm not sure if I've managed to answer your question now or not.

Q. I don't think you have, and I'm going to move to strike as non-responsive.

Sir, if, for example, in any public statement about its cigarettes the cigarette manufacturer made an inaccurate -- a knowingly inaccurate statement about those cigarettes, that would be a breach of duty to the people who smoke those cigarettes; wouldn't it, sir?

MR. CORRIGAN: Objection, same grounds as previously stated.

A. So I'm --

I've got a bit lost between the two.

Q. You can answer the question, sir.

MR. CORRIGAN: If you're not --

If you're capable of answering the question, you

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may do so; if you're not, let her know.

MS. WIVELL: I object to your coaching the witness, sir.

MR. CORRIGAN: I'm not coaching.

THE WITNESS: I'm not sure whether I can answer it or not, so maybe -- maybe try it again.

MS. WIVELL: All right. Let me ask it again.

Q. If a cigarette manufacturer made a knowingly inaccurate public statement about its cigarettes and smoking-and-health issues, that would be a breach of duty to the people who smoked its cigarettes; wouldn't it?

MR. CORRIGAN: Same objection, same grounds.

A. Well I'm -- I'm not a lawyer, so I really don't know for sure the answer to that question in strict terms.

Q. Well let's take you, sir.

THE REPORTER: Just a moment. We have to change tape. Off the record, please.

(Discussion off the record.)

BY MS. WIVELL:

Q. Let's talk about you, sir.

When you speak from time to time publicly on

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behalf of B.A.T Industries, do you feel it's your responsibility to speak accurately about smoking-and-health-related issues?

A. Well I see it as my responsibility to speak accurately, period, you know, whatever the issue.

Q. All right. And you would agree that it's the responsibility of the various BAT Group companies to speak accurately about smoking-and-health-related issues; isn't it?

A. Well I --

Companies don't speak, people speak. So I mean I -- I see it as the responsibility of people generally to speak accurately. I see it as the responsibility of companies to make accurate statements in their documents.

Q. All right. And you understand that in this lawsuit, plaintiffs have asserted that B.A.T Industries and various BAT Group companies have in their files documents which show that these companies knew that there was a link between smoking cigarettes and disease; right?

MR. CORRIGAN: Object to the form of the question.

MS. WIVELL: I would like you to finish -- to let -- allow me to finish my question before you

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Source: https://www.industrydocuments.ucsf.edu/docs/qpxd0001

speak, sir.

MR. CORRIGAN: I'm sorry, I thought you had finished. I'll withhold --

MS. WIVELL: I --

MR. CORRIGAN: No, go ahead, finish.

Q. You understand that in this lawsuit, plaintiffs have asserted that B.A.T Industries and various BAT Group companies have in their files documents which show that these companies knew that there was a link between cigarette smoking and disease; correct?

MR. CORRIGAN: Objection, same grounds.

A. I'm not sure whether I do know that, no.

Q. Well you --

A. I --

Q. I'm sorry. Were you done?

A. No. I mean I have read the complaint. I can't read it -- I mean I can't recall all the elements of it, but, you know --

Carry on.

Q. All right. Do you understand that in this lawsuit plaintiffs contend that B.A.T Industries and various of the BAT Group companies concealed documents that showed there was a relationship between smoking and health?

MR. CORRIGAN: Objection.

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Source: http://www.industrydocuments.ucsf.edu/docs/qpxd0001

A. I recall that there were claims within there about concealment, but specifically concealment as to what --

I mean if you'd like to show me the document. I'm not sure whether that's an accurate reflection of what precisely was said.

Q. Well sir, isn't it true that B.A.T Industries, BATCO and BATUKE have documents in their files showing that cigarette smoking causes disease?

MR. CORRIGAN: Objection to form.

A. No, I don't think it is accurate.

Q. Isn't it a fact that B.A.T Industries and its subsidiary companies have concealed evidence from its files that cigarette smoking causes disease?

MR. CORRIGAN: Same objection.

A. B.A.T Industries I don't think has any evidence because it doesn't do any research. BAT Group companies do research. But I don't believe they have in their files anything that shows -- gives conclusive evidence of causation; thus, they haven't concealed it, because I don't think there's anything there to conceal that's conclusive on causation.

Q. Well sir, let me rephrase the question a little bit differently. Isn't it a fact that there are documents within the files of various BAT Group

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Source: http://www.industrydocuments.ucsf.edu/docs/qpxd0001

companies that show that smoking -- that -- that reflect opinions that cigarette smoking causes disease?

MR. CORRIGAN: Objection, same grounds.

A. There may well be opinions on documents expressed to that effect.

Q. And --

A. That would hardly be surprising.

Q. And those documents have never been revealed to the public; have they, sir?

MR. CORRIGAN: Objection.

A. I -- I don't know whether they've ever been revealed to the public, but I think -- let's --

Let's step back a little bit and think about what the, you know, obligation would be. I mean it seems to me that the obligation on a corporation is to state facts and not opinions as such. I mean it needs to state an opinion if it believes it to be an accurate opinion from the -- from the weight of the evidence. But the fact that there should be individual opinions on any subject that differ within a corporation is normal. That's got nothing to do with smoking and health as such, as the subject which we happen to be on at the moment, but any subject, particularly anything that's controversial. And

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there are a lot of controversial issues in business generally. You would expect there to be different opinions within the corporation expressed by different people. And -- and I would not expect any industry on any subject to go publishing all of the opinions of all of the people individually in the corporation.

Q. Move to strike as non-responsive. My question is simple.

A. Oh. I thought I answered the question.

Q. Those documents have never been revealed to the public; have they, sir?

MR. CORRIGAN: Same objection.

A. Those documents? Which documents?

Q. The documents which state that smoking causes lung cancer, for example, from the files of BAT Group companies, have never been revealed to the public; have they, sir?

MR. CORRIGAN: Objection. Are these the opinion documents or different documents? I'd like you to rephrase.

A. I thought I just answered your question, I thought I was entirely responsive, so I'm having difficulty to understand what was unresponsive about it. Perhaps I'll try again.

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Seems to me that there are two types of documents, okay, that we can consider at the moment, some express opinions and some express facts. Could you guide me as to which of those two types of documents you are referring to in terms of whether they've been published or shown to the public?

Q. All right. Let's start with the opinion documents. The documents from the files of BAT Group companies that state, for example, that the case against smoking is long closed and that cigarette smoking causes lung cancer, those documents have never been revealed to the public; have they, sir?

MR. CORRIGAN: Objection. You should now show those documents to the witness if we're going to be fair.

A. You obviously have some documents in mind, and I think it might be helpful if I saw them. But my generalized statement is really the one I made before. Expressions of individual opinion I would not expect to be disclosed.

Q. All right. Let's take the fact documents. Has -- or what you -- I'm sorry, strike that.

Let's take the documents you refer to as the fact documents. What documents are you referring to, sir?

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Source: http://www.industrydocuments.ucsf.edu/docs/qpxd0001

A. I don't have any particular document in mind. All I'm saying is documents generally relate to either opinions or facts. That's on any subject. I'm talking about any subject. I'm not just talking about smoking and health. They relate to any subject. You have some that relate to facts, some that relate to opinions.

If you've got a document --

Q. We talked earlier --

MR. CORRIGAN: He wasn't finished.

MS. WIVELL: Oh, I'm sorry, I thought you were. Beg your pardon.

A. If you've got documents that relate to facts, then let's see those facts and then I can give you an answer as to whether they should have been released. If you have got documents relating to opinions, I can give you a collective answer, which is to say I think the opinions of individuals, if that's all they are, are not documents that would be appropriately disclosed to the public.

Q. Okay. Well you would agree that there was a research facility at Southampton that did research on biological activity of cigarette smoking; right?

A. Correct.

Q. Okay. Now you also understand that from time to

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time various of the BAT Group companies would hire outside consulting reps, such as Battelle in Geneva, to do research for that company on the issue of smoking and health; right?

A. Yes, I do understand.

Q. All right. Well let's take some of those various pieces of research that were done.

Was the research that was done at the Wisconsin Alumni Research Fund or Foundation ever published?

MR. CORRIGAN: Objection, no foundation. You haven't established, first, whether he's aware that there was any such research.

A. I have absolutely no idea.

Q. All right. How about Project ARIEL, was the research that was done concerning Project ARIEL ever published?

MR. CORRIGAN: Same objection, same reason.

A. I don't know what Project ARIEL was. Could you give me some guidance on that?

Q. All right. You just don't know as you sit here today what Project ARIEL was?

MR. CORRIGAN: Objection, he already told you he didn't know. You're harassing him now.

A. Maybe -- maybe I should explain this. You know, I'm the chief executive of a holding company. All

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right. I think I have explained before the role of a holding company is to invest in operating subsidiaries. The holding company doesn't carry out business. I think I've explained to you before that I'm not a scientist. We don't have any scientists at B.A.T Industries. Science is a role which is carried out by the operating subsidiaries. Most --

Much the fundamental research that we've talked about, much of it is carried out at Southampton, but not all of it.

Now, I am aware of a whole series of projects have been carried out over a long period. They go under various code names, as projects normally do. I have to tell you that, sitting here, I do not know which code names relate to which projects. Research has never been an area, as I've explained to you, that I understand the finer points of. Science is not my strong point.

So yes, has there ever been a Project ARIEL? Yes. I have heard the name Project ARIEL. What was that project? I don't know what that project was.

Q. All right. Have you ever heard of MAD HATTER?

A. I have heard the expression MAD HATTER.

Q. All right. Was the MAD HATTER research ever published?

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MR. CORRIGAN: Objection.

A. Don't know.

Q. How about the Project HIPPO research that was done for B.A.T., was that ever published?

MR. CORRIGAN: Same objection.

A. Let me see if I can be more helpful, and it's clear the last answer wasn't. Various of these projects have been done at different times. Some of them have been done internally and some have been done, as you said, externally by various agencies. So the best of my knowledge, those that have been done by external agencies have been permitted to publish where they've wanted to, I think. Those that are internal, if they've got conclusive facts in them, would have been published. If they are not conclusive, I doubt that they would have been published. That's a statement of policy.

I have to tell you that on any individual project, my answer is "I don't know."

Q. All right. So if I were to ask you about Project JANUS or Project CONKER or Project RIO or Project GREENDOT or Project SHIP, your answer would be the same: You just don't know whether that information was published.

A. Correct.

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Q. All right. Have you ever looked at any of those research projects, sir?

MR. CORRIGAN: Those being the ones you just listed, counsel?

A. Looked at the project, --

MR. CORRIGAN: I object to form.

A. -- by which you mean --

I mean projects -- projects can take a long time. "No" is the answer.

Q. Okay. Well sir, isn't it a fact that you made a public statement last year that denied that your company had concealed evidence?

A. I made --

Would you like to show me the statement? Because I made a comment along those lines, but I don't think it was that statement.

Q. All right. Do you remember making a -- a public statement concerning -- or denying the concealment of evidence?

MR. CORRIGAN: Object to the form.

A. I -- I think if you could show me the statement, I could tell you whether it was an accurate reflection of the statement I made.

(Plaintiffs' Exhibit 500 was marked for identification.)

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MR. CORRIGAN: Before you ask the next question, counsel, let me just note my objection for the record that this document was not predesignated. Plaintiffs' Exhibit 500 is not contained on any of the three predesignation lists that we received and, therefore, is in violation of the court's order concerning use of exhibits at the depositions.

MS. WIVELL: Well --

MR. CORRIGAN: That's my objection on the record. We're here, so proceed.

MS. WIVELL: For the record, I would say that I wasn't intending to show the witness the exhibit, but he asked me for it, so I felt I had to.

BY MS. WIVELL:

Q. Sir, showing you what's been marked as Exhibit 500, this is an article that appeared in the Wall Street Journal entitled "B.A.T Industries Pretax Profit Rose 5%; Sale of Tobacco Business Under Review;" correct?

A. Correct.

Q. And it quotes you toward the end of the article; doesn't it, sir?

A. Yes, it does.

Q. Now did you issue a press release from which this article was taken?

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A. No.
Q. Did you make a -- a statement to the press from which this article was taken?
A. Yes.
Q. So you made a live statement to a reporter or reporters --
A. To a -- a group of reporters.
Q. All right. And when you made that statement, you intended that statement to be accurate; didn't you, sir?
A. Yes.
Q. And you said there, quote, "We haven't concealed, we do not conceal and we will never conceal;" correct?
A. Not in isolation, no.
Q. Well the -- the --
That's a direct quote from the --
A. It's a direct extract from a quote.
Q. All right. And the --
And the context was the fact that B.A.T.'s Brown & Williamson unit in the U.S. had been accused of concealing research that showed a link between smoking cigarettes and disease; right?
A. That's the context in which they are putting it. I was taking it in a wider sense.

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Q. All right. And you said that charges were unfounded; is that true?
A. Yes.
Q. All right. And then you went on to say, quote, "We have no internal research which proves that smoking causes lung cancer or other diseases or, indeed, that smoking is addictive;" correct?
A. Certainly I said, "We haven't concealed, we do not conceal and we will never conceal." I then went on to say what do I mean by that? What I mean by that is that "We have no internal research which proves that smoking causes lung cancer or other diseases...."
Q. And then you go on -- and went on to say, "...or, indeed, that smoking is addictive;" correct?
A. That's what it says here. I won't dispute that I said that because I might well have said that. I don't actually remember that bit, but I won't dispute it because I probably did.
Q. And when you were making this public statement, you had a responsibility to speak accurately; didn't you, sir?
MR. CORRIGAN: Object to form.
A. I -- let's -- let's answer the question this way: When I made that statement, I believed it to be

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an accurate statement.
Q. Do you believe it to be inaccurate today as you sit here?
A. No. Sitting here today, I still believe it to be an accurate statement.
Q. And sir, you would agree that when you make public statements on behalf of your company or your group of companies, you have a responsibility to speak accurately; don't you?
A. Let me answer the same question, or it's much the same question, the same way: When I speak on behalf of the company, I intend to speak accurately.
Q. Now sir, isn't it true that the position, the public position that tobacco companies make regarding smoking and health is dominated by legal considerations?
A. No.
Q. Isn't it a fact that when they speak publicly, they must repudiate a causal role for their products if they hope to avoid liability in lawsuits relating to smoking and health?
MR. CORRIGAN: Object to the form to the extent it embraces entities other than those for whom Mr. Broughton is responsible.
You may answer.

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A. Could you ask the question again, please?
Q. Yes, sir.
Isn't it a fact that when they speak publicly, tobacco companies must repudiate a causal role for their products if they hope to avoid liability in lawsuits relating to smoking and health?
A. Yeah. I mean I wouldn't speak for the other tobacco companies.
Q. All right. Why don't you speak for yours, sir.
Isn't it a fact that when any of the BAT Group companies speak, they much repudiate a causal role for their products if they hope to avoid liability?
A. I think the central thing is they make statements, believe them to be accurate. I don't think I would go further than that. I mean I think, as it happens, they're making accurate statements; also in this case, as I see it, it helps defend against charges.
If the company -- and this is now speculative -- if the company had conclusive evidence of causation, then I would expect the company to speak accurately on that, whether it's -- whichever operating company it happens to be within the group. I would expect them not just to speak accurately, I would expect them to inform me, B.A.T Industries, because if they

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had such conclusive evidence, that would be inconsistent with our position, and therefore I would expect to be informed.

MS. WIVELL: Mr. Stirewalt, would you get out Exhibit 314.

(Exhibit 314 handed to the witness.)

MR. CORRIGAN: Marti, do you have an extra copy?

(Document handed to Mr. Corrigan.)

MR. CORRIGAN: Thanks.

BY MS. WIVELL:

Q. Sir, showing you what's been previously marked as Exhibit 314, this is a document that has the initials at the end SJG; correct?

A. Yes, it is.

Q. And S. J. Green, Dr. S. J. Green was the head of research and development for British-American Tobacco back in the mid-'70s; wasn't he?

A. I'm sorry, I was looking at the document. Can you repeat that?

Q. Dr. S. J. Green was the head of research and development for British-American Tobacco in the mid-'70s; wasn't he?

A. I think that's right.

Q. All right. Sir, would you take a look at the

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first two paragraphs of this document.
A. Would you mind if I take a look at more than just the first two paragraphs?
Q. You've not seen this document before, sir?
A. No, I haven't.
MS. WIVELL: All right, fine. Why don't we go off the record and you can read it.
THE REPORTER: Off the record, please.
(Discussion off the record.)
BY MS. WIVELL:
Q. Sir, Exhibit 314 is entitled "CIGARETTE SMOKING - CAUSAL RELATIONSHIPS; correct?
A. Correct.
Q. And it was produced by BATCO in this litigation; wasn't it, sir?
A. I -- I take it that's what that thing at the bottom indicates.
Q. It says --
A. Because I don't know.
Q. -- at the bottom "BAT Co Ltd - Minnesota Tobacco Litigation;" doesn't it?
A. That's what it says.
Q. All right.
A. I'm not sure what it means.
Q. All right. Now the second paragraph of this

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document starts out, "Of course the public position of the tobacco companies is dominated by legal considerations. In the ultimate the companies wish to be able to dispute that a particular product caused injury to a particular person. By repudiating a causal role for their products they hope to avoid liability." Did I read that correctly?

A. You did.

Q. All right. And isn't it a fact that the public position taken by your group of companies was taken because of legal considerations, sir?

MR. CORRIGAN: Object to the form.

A. The public position taken by any of the companies within our group has been taken principally because we believe it to be accurate.

Q. Sir, isn't it a fact that the position of the companies, especially in the United States, was taken because of the potential of high-risk, wipe-out litigation?

MR. CORRIGAN: Objection, calls for speculation on the part of the witness.

A. I -- I -- I find that unlikely. These positions that I've talked about have been taken for a very long time.

MS. WIVELL: Mr. Stirewalt, could you get

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out Exhibit --

MR. CORRIGAN: Excuse me. I don't think the witness has finished his answer.

MS. WIVELL: Oh, I'm sorry. Were you done, sir?

A. Well I'm not sure. As a result of that, I find it an unlikely conclusion, the one you made.

MS. WIVELL: Mr. Stirewalt, could you get out Exhibit 318.

(Exhibit 318 handed to the witness.)

MR. CORRIGAN: Have any extras?

MS. WIVELL: No.

BY MS. WIVELL:

Q. Sir, showing you what's been marked as Exhibit 318, this is a letter from Dr. I. W. Hughes of Brown & Williamson Tobacco Corporation to Mr. S. J. Green of British-American Tobacco Company, March 14th, 1977; right?

A. I -- I don't know. It's -- it's certainly from IWH, which is -- is probably I. W. Hughes.

Q. All right. Well if you look at the top of the letterhead, it says "DR. I. W. HUGHES, Senior Vice President - Manufacturing, and Research and Development;" right?

A. You're right. That's in such small letters, I

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hadn't seen it. Yeah, I agree.
Q. And at the time this letter was written, Dr. Green was head of research and development for British-American Tobacco Company; wasn't he, sir?
A. I couldn't say for certain whether that was true, but around about that time he was.
Q. Have you seen this document before?
A. No.
Q. Would you please take a moment and read it.
MR. CORRIGAN: I take it you're not asking the witness to read the handwritten marginalia, which does not appear to be decipherable.
MS. WIVELL: You're right.
MR. CORRIGAN: Okay.
A. Okay.
Q. You've read it?
A. Yes, I have.
Q. Now sir, Mr. -- or I'm sorry.
Dr. Hughes in this letter refers to a paper on causality in his letter to Mr. Green -- Dr. Green.
A. Yes, he does.
Q. All right. And he says, "...personally, since I would view it more as a corporate policy paper, I feel that discussions at the Research Conference would not be useful;" correct?

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A. You read it correctly, yes.
Q. And he goes on to say, "I think you know that the position in the U.S. is still focussed around the existence of high-risk, quote, wipe out, quote, liability; this leads to the continuing dominance of the legal attitude." Right?
A. You've continued to read accurately, yes.
Q. All right. Sir, were you aware of the existence of this letter at the time you gave your testimony just a moment or two ago?
A. No. I've never seen this letter before.
MR. CORRIGAN: Well I object to form, but --
Q. Now sir, isn't it a fact that the tobacco industry demands scientific proof for -- I'm sorry. Strike that.
Isn't it a fact that the tobacco industry would demand, quote, unquote, scientific proof of a link before -- between smoking and health, smoking and disease --
MR. CORRIGAN: Objection.
Q. Strike that.
Isn't it a fact that the BAT Group would demand, quote, unquote, scientific proof of a link between smoking and disease before it would admit that

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cigarettes cause disease?

MR. CORRIGAN: Objection to the hypothetical nature of the question.

A. Well, let's see if I can answer that question as helpfully as possible. It seems to me that we are, and have been for a long time, in the middle of a major controversial debate. There are views, as there are in most debates, on both sides of the argument. It would be extremely helpful to everybody if there were scientific proof, scientific evidence to support one argument or the other.

From the tobacco companies' viewpoint, if there was scientific proof that related, for example, a specific constituent to being the cause of any particular disease, then clearly that would enable us to direct our efforts to try and eradicate that constituent, if it was possible. If it was not possible, at least we could inform the public specifically of what the constituent was, what the concern was, what we were doing about it, et cetera.

It's not possible to eliminate the constituents causing any alleged problem if nobody in science can tell you which the constituent is.

Was that a helpful answer?

Q. Well sir, isn't it a fact that by the mid-'70s,

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cigarette smoking was known to be toxic?

MR. CORRIGAN: Object to the form of the question.

A. I'm not sure that I understand the question.

Q. Well isn't it a fact, sir, that it was known by the mid-'70s that cigarette smoking was associated with disease?

MR. CORRIGAN: Object to the form of the question.

A. It was certainly -- let's see if I'm able --

It was certainly general knowledge that cigarette smoking may be associated with health problems. That's been generally accepted knowledge for a very long time, that there may be an association between cigarettes and health.

Q. Sir, isn't it true that by the mid-'70s it was -- it had long since ceased to be -- I'm sorry, strike that.

Isn't it a fact that by the mid-'70s, there had been no change in the scientific basis for the case against smoking, and that it had long since ceased to be an area of controversy?

MR. CORRIGAN: Object to the form of the question.

MR. BEZANSON: Object to the form.

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MR. CORRIGAN: Presupposes an area of controversy worldwide, or seems to be.

MS. WIVELL: I'm going to rephrase the question.

Q. Isn't it a fact, sir, that by the mid-'70s there had been no change in the long-standing scientific basis of the case against smoking?

MR. CORRIGAN: Object to the form.

A. I'm not sure I understand the words your using. Isn't it a fact --

Say that again slowly.

Q. Isn't it a fact that by the mid-'70s there had been no change in the scientific basis for the case against smoking?

A. No change from what?

Q. In the scientific basis for the case against smoking.

A. But no change from what?

Q. From the long-standing fact that there had been a case against -- a case linking smoking and disease.

MR. CORRIGAN: I object on --

The question is becoming a little incomprehensible. Perhaps we could go back to square one.

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A. I find it incomprehensible. I mean you seem to be asking that there's -- for me to say it's a fact that there had -- I can't remember now whether it's been a change or had not been a change.

Q. All right. I'll rephrase the question.

A. From what to what? I mean --

Q. Isn't it a fact that by the mid-'70s there was a solid case establishing that smoking caused disease?

MR. CORRIGAN: Objection.

A. I think that by the mid-'70s there was a lot of epidemiological evidence supporting the case.

Q. Are you done?

A. Yes.

Q. And isn't it a fact that by the mid-'70s, it had long since ceased to be an area of scientific controversy?

MR. CORRIGAN: Objection. Witness has testified to this previously, but you may answer again.

A. I thought I had testified that the whole subject of smoking and health has long been, continues to be, and will no doubt continue to be for some time, a subject of scientific controversy.

MS. WIVELL: Mr. Stirewalt, would you get out Exhibit 301.

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(Exhibit 301 hand to the witness.)

BY MS. WIVELL:

Q. Sir, showing you what's been marked as Exhibit 301, this is a document headed "RESTRICTED, NOTES ON GROUP RESEARCH & DEVELOPMENT CONFERENCE, SYDNEY, MARCH 1978;" correct?

A. It is.

Q. And there are a list of individuals listed under that heading; aren't there?

A. There are.

Q. And you recognize some of those names as BATCO employees; don't you, sir?

A. I recognize some of those names, not many of them, as BATCO employees.

Q. You recognize some of them as Brown & Williamson employees; don't you, sir?

A. No, I don't think I recognize any of them as Brown & Williamson employees.

Q. All right. Sir, the first paragraph of this document states, "There has been no change in the scientific basis for the case against smoking. Additional evidence of smoke-dose related incidence of some diseases associated with smoking has been published. But generally this has long since ceased to be an area of scientific controversy." Correct?

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A. That's what it says, and I think that's entirely consistent with what I just said. This is -- this is, to my mind, saying that the related incidence of some diseases associated with smoking has been published. The association through epidemiological evidence has long ceased to be an area of scientific controversy. One accepts the controversy.

One accepts that there is no controversy that there is epidemiological evidence associating the two.

Q. Sir, isn't it a fact that by the mid-'80s, a direct causal link had been established between smoking and disease?

MR. CORRIGAN: Object to the form.

A. I'm trying to differentiate that question from the one I've answered before.

MR. CORRIGAN: I think she changed time period. I think she's asking you about the '80s.

MS. WIVELL: I'm sorry, let me rephrase the question.

Q. Isn't it a fact that by the mid-'70s, a direct causal link had been explained for the relationship of smoking and disease?

MR. CORRIGAN: Object to the form.

A. I'm still trying to figure out --

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I thought I had answered this question before.
Q. Move to strike as non-responsive.
Sir, isn't it a fact that by the mid-'70s, a direct causal link had been established for the relationship of smoking and disease?
A. Not to my knowledge.
MR. CORRIGAN: Well he has -- he has answered that before, but he may answer again.
A. Not to my knowledge.
(Plaintiffs' Exhibit 501 was marked for identification.)
BY MS. WIVELL:
Q. Sir, showing you what's been marked as Plaintiffs' Exhibit 501, this is a document that says at the bottom "BAT Co Ltd - Minnesota Tobacco Litigation;" correct?
A. Correct.
Q. Bates numbered 110076427; right?
A. I'm sorry. That was a question?
Yes.
Q. It's from S. J. Green to Patrick Sheehy; right?
A. And to Phillip Short.
Q. All right. And at the time this document was written -- I'm sorry.
The date of this document is April 17th, 1976;

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right?

A. No. May.

Q. I'm sorry. Let me restate the question.

This document is dated May 17th, 1976; right?

A. Correct.

Q. At the time Patrick Sheehy was -- held what position, sir?

A. 1976, I think I'm right in saying he was --

Hold on. 1976, May 1976. I'm not sure what position he held.

Q. Who was P. L. Short?

A. Phillip Short.

Q. What was his position?

A. In May 1976, I can't remember.

Q. Sir, would you take a look at the second page of the document. The second page is headed "THE EFFECT OF RESTRICTIONS ON CURRENT MARKETING AND MARKETING IN THE FUTURE;" correct?

MR. CORRIGAN: Let me just make an objection for the record, if I could, Ms. Wivell. My understanding is although you did designate the first page of Exhibit 501 on one of the three lists you gave us, you did not designate the ensuing pages, and I just wanted to draw that to your attention.

MS. WIVELL: I'm sorry, I thought I had

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designated the whole document.

Let me restate the question.

THE WITNESS: Yeah.

Q. The second page is headed "THE EFFECT OF RESTRICTIONS ON CURRENT MARKETING AND MARKETING IN THE FUTURE;" correct?

A. Correct.

Q. Now at the bottom of the page -- or halfway down the page it says "Comments on Conclusions;" right?

A. Yes, it does.

Q. And then it says, point (4), "In view of the known toxicity and the strong association of smoking and disease I believe any attempt to increase the smoking habit is irresponsible." Correct?

A. That's what it says.

Q. All right. Would you turn to the next page, and then at -- where it -- it says page three, the heading page three.

A. I might just add, if I may, that you left out the rest of that paragraph, that clause which says, "Equally I believe it is irresponsible to exaggerate the dangers in order to decrease the habit."

Q. Move to strike as non-responsive.

Sir, would you turn to the next page which says page three.

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A. Next page says page two.
Q. Yes, but the next page in the middle says page three; doesn't it?
A. Oh, I beg -- I'm sorry, it does.
Q. And there immediately under that it says, quote, "Smoking is," underlined, "associated with various diseases and the simplest explanation is direct causal;" correct?
A. Can I draw your attention to the front page?
Q. Move to strike as non-responsive. Sir --
A. In that case --
MR. CORRIGAN: You may go ahead and finish your answer.
A. In that case, in line with the comments on the front page, it is quite clear that it says on the front page that the comments "...are not R. & D. comments - merely my own...," so he is expressing a personal opinion here.
Q. Sir, move to strike as non-responsive.
The question is this: It says there, quote, "Smoking is associated with various diseases and the simplest explanation is direct causal." Correct?
A. That is the opinion being expressed by the author.
Q. And this is the opinion of the person who was

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head of research and development for British-American Tobacco Company at the time this document was written; right?

A. That is, as he points out himself, merely his own opinion, not those of R&D. But it's a perfectly valid opinion.

(Discussion off the stenographic record.)

A. Perfectly valid for him to have that opinion.

If you look at the words, what he's actually saying is it is the simplest explanation.

Q. Move to strike as non-responsive.

Sir, isn't it a fact that your company's position on causation was simply not believed by the overwhelming majority of independent scientists?

MR. CORRIGAN: Object to the form of the question. "Your company's" is ambiguous, as we've clearly established all day today. I'd like you to be more specific, please.

MS. WIVELL: I'll rephrase the question.

Q. Isn't it a fact that the BAT Group's position on causation was simply not believed by the overwhelming majority of independent scientists?

MR. CORRIGAN: Same objection.

A. The position expressed by the BAT Group is a position which is expressed in the light of the fact

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that this is a highly controversial subject. Highly controversial subjects would normally mean that there are a lot of people in agreement with one view, a lot of people in agreement with another view. I think it is perfectly accurate to express that the majority view would not be in agreement with the B.A.T. position.

Q. So you --

You are agreeing, then, that the position which B.A.T Industries has articulated on smoking and health and causation is not believed by the majority of independent scientists; right?

MR. CORRIGAN: Object to the form of the question.

A. It's never occurred to me that holding an opinion is wrong just because it's a minority opinion.

Q. But you understand that it is not an opinion that is held by the vast majority of scientists in this world; right?

MR. CORRIGAN: Objection, he's already stated the position. You may answer again.

A. I thought I'd already stated my position.

(Plaintiffs' Exhibit 502 was marked for identification.)

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BY MS. WIVELL:

Q. Sir, showing you what's been marked as 502, this is a document that says at the bottom "BAT Co Ltd - Minnesota Tobacco Litigation" and bears the Bates number 109881322; correct?

A. Correct.

Q. At the top it says "SECRET;" doesn't it?

A. At the top it says "SECRET," it says "APPRECIATION," and it says "COPY NO."

Q. All right. Now what do you understand "APPRECIATION" to mean?

MR. CORRIGAN: Objection. Are you asking generally, or how it's used in this document? I'd like you to rephrase so at least we're clear as to that.

She's choosing not to rephrase, so --

THE WITNESS: Oh, she's choosing not to rephrase.

A. I don't know.

Q. All right. Have you ever seen this document before, sir?

A. No, I haven't.

Q. Would you turn to the second page. Under point m) this document states, "The company's position on causation is simply not believed by the overwhelming

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majority of independent observers, scientists and doctors;" correct?

A. You're reading out -- you're --

It's an accurate statement of what is there. You're reading out a paragraph from a very long document, so I have absolutely no idea of its context. But it is -- in terms of the accuracy of the limited extract you've taken, it's an accurate read.

Q. And that was a position that your company had taken for 20 years to try and defend itself in smoking and health; wasn't it?

MR. CORRIGAN: Objection, B.A.T Industries would not have been in existence for 20 years at the date of this document.

MS. WIVELL: Let me rephrase the question.

Q. And that is a position that the BAT Group had taken for 20 years to try and defend itself in smoking-and-health litigation; right?

MR. CORRIGAN: Objection to the form.

A. Sorry. Say that again.

Q. All right. And that is a position that the BAT Group had taken for more than 20 years in trying to defend itself in smoking-and-health-related cases; correct?

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MR. CORRIGAN: Object to form.
A. I find -- I find difficulty with -- I think --
I don't think the company or companies within the group had specifically been taking the position that the company's position is simply not believed by the overwhelming majority of independent observers.
Q. As a matter of fact, isn't it true that the company had asserted that it was the majority opinion?
MR. CORRIGAN: Objection to the form.
Q. Right?
MR. CORRIGAN: And to the tone.
A. If that were to be true, which is news to me, I don't -- I've not -- I'm not sure where you get that from. I'm sure you'll show me. If that's true, then you just confirmed my position.
Q. Sir, isn't it possible -- I'm sorry. Strike that.
Isn't it a fact that your group's position on smoking and health was recognized as one that would, in the long term, affect the industry's viability?
MR. CORRIGAN: Objection to the form.
A. Isn't it a fact that -- how --
Q. The group's position --
A. Group's position.

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Q. -- on causation was recognized as so non -- let me say it again.
A. Yeah.
Q. Isn't it --
A. You're incomprehensible at the moment, and you have to --
Q. Isn't it true that the BAT Group's public position on smoking and health was recognized within the company as being so untenable that it could seriously inhibit the company's long-term position?
MR. CORRIGAN: Object to the form of the question.
A. No, I mean I think you may well find that there were individual opinions, the occasional view, which would hardly be surprising, that may have been expressed to that effect. As to whether it was the general view, I think the answer is no.
Q. Well sir, could you turn to the next page of Exhibit 502. Do you see point f)?
A. Point f)?
Q. Yes. Do you see it, sir?
A. Yes.
Q. Now it says, "Our position on causation, which we have maintained for some twenty years in order to defend our industry is in danger of becoming the very

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factor which inhibits our long term viability."
Correct?
A. I think that's a quite different position --
Yes, that is what it says, but that seems to be quite different from what you previously said.
Q. And sir, isn't it a fact that your -- your BAT Group's position on public -- I'm sorry. Strike that.
Isn't it a fact that the BAT Group's public position on smoking and health and causation was due essentially to the legal position it had to maintain in the United States in order to try and win smoking-and-health-related lawsuits?
MR. CORRIGAN: Objection, asked and answered previously.
A. I thought I'd answered that question.
Q. Could you answer it again, please, sir.
A. Could you repeat it again?
Q. I will.
Isn't it a fact that at the time this document was written, the BAT Group's public position on smoking and health and causation was essentially dictated by the legal position it had to maintain in the United States in order to try and win smoking-and-health-related lawsuits?

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MR. CORRIGAN: Objection, repetitive.

A. Well for a start, I'm not sure when this was written; haven't seen a date on it yet.

16th of May, 1980. No, I think our position on causation has largely been that position because we believe it to be an accurate position. That's not to say there aren't other elements in there, but that's the principal reason.

Q. Sir, would you turn to the page of Exhibit 502 which ends on 325. Do you see the heading "COURSES OPEN TO US?"

A. I do.

Q. It says there, "We can continue to maintain our present position on causation;" --

A. Can I --

Q. -- correct?

A. Can I just ask a question? If you're going to go through this document any further, maybe I ought to read it, because I've not seen this document before.

Q. Sir, it says there, quote, "We can continue to maintain our present position on causation;" correct?

MR. CORRIGAN: Well the witness had made a request, and apparently counsel is ignoring. Can we

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have a response to the request? It might help us expedite. Because if it's not necessary for him to do it, then we won't waste any time; if it is, we should do that because it will save time.

MS. WIVELL: May I have a -- an answer to my question?

MR. CORRIGAN: All right. She's declining to respond to your request, so do the best you can, Mr. Broughton, please.

A. Could you repeat the question?

Q. Sir, on the page that ends with Bates number 325, it says, quote, "We can continue to maintain our present position on causation;" correct?

A. Correct.

Q. And then -- and then it says "Advantages;" right?

A. Correct.

Q. And it goes on to say, "Our legal position in the USA will remain intact, as far as we have been advised;" correct?

A. Correct.

Q. All right. And sir, then it goes on to list some disadvantages; right?

A. It goes on to list some more advantages, but then it goes on to list some disadvantages.

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Q. All right. Now sir, you've not read this document before?
A. No.
Q. Would you please read over the next couple of pages.
A. Just the next couple of pages?
Q. Well if you want, you can read the whole document and we'll go off the record.
THE REPORTER: Off the record, please.
(Discussion off the record.)
BY MS. WIVELL:
Q. Sir, you've now had the opportunity to read Exhibit 502; right?
A. Yes, I have.
Q. All right. Now this document suggests a change of position with regard to the issue of smoking and its relationship to disease; right?
A. Correct.
Q. All right. And it talks about the fact that the company should consider -- I'm sorry.
It talks about the fact that the group should consider moving to a new strategy; right?
A. Yes, it does.
Q. And that strategy was to move the group's position on causation to one which acknowledged the

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probability that smoking is harmful to a small percentage of heavy smokers; right?

A. That was --

MR. CORRIGAN: Are you reading from a particular page there, Ms. Wivell?

MS. WIVELL: I'm sorry, sir?

A. That was the suggestion made on the top of page five.

Q. All right. And under that suggestion there were several advantages listed; right?

A. Correct.

Q. All right. And the first is "Credibility will be restored to the industry;" right?

A. That is the first one there.

Q. And there are several other advantages which would come to the group if that position were adopted; right?

A. In the view of the author.

Q. Was the view -- I'm sorry. Strike that.

Was the -- the topic of moving the companies' position to acknowledging the probability that smoking was harmful to some smokers discussed?

(Discussion off the stenographic record.)

A. Well the --

MR. CORRIGAN: Wait. Did you finish your

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question after the word "discussed"?

MS. WIVELL: Yes.

MR. CORRIGAN: Okay. Let me object, then, because it's not clear whether you're asking the witness whether it was discussed in his presence or whether it was discussed by someone else, so I object.

MS. WIVELL: Let me rephrase the question.

BY MS. WIVELL:

Q. Did the BAT Group discuss moving the companies' position on causation to one which acknowledged the probability that smoking was harmful to some smokers?

MR. CORRIGAN: Object to the form.

A. Is the question meant to be in relation to this memo?

Q. Generally, sir, at any time. Has --

A. So --

Well, would you like to phrase the question for me in the context of -- of a general? Because you say "did." "Did" implies a certain specific time.

Q. Well were there --

A. I'm just trying --

You gave me a document and I'm -- I'm just trying to understand quite what the document is

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getting at.
Q. Okay. Well this document talks about the possibility of moving the companies' position on causation to one acknowledging the probability that smoking causes disease in some people; right?
A. Correct.
Q. Did that discussion take place among the BAT Group companies?
A. The aim --
MR. CORRIGAN: Well I object to the form. By using the phrase "that discussion," you're presupposing that this document is a discussion, so I object to the form.
A. That suggestion made in this memo in May 1980, judging from the words in the memo itself on page six where it says, "On balance, it is the opinion of this department," suggests that it was discussed within the department.
Q. All right.
A. Okay? Whether it was discussed outside of the department I really have no idea, because it's not indicated in here whether it was even ever sent to anybody outside the department.
Q. All right. Sir, during the time that you have been on the board of B.A.T Industries, has the board

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ever discussed moving the group's position on causation to one which acknowledged that smoking causes disease in some people?

A. Has the board of B.A.T Industries during my time on the board discussed moving to -- the position?

I don't recollect a specific discussion to that effect.

Q. Didn't Dr. Blackman come to the board and recommend this exact position, that the company move the BAT Group's position on causation from one which said that there was a controversy to one which acknowledged that there were some people who might get diseases as a result of smoking?

MR. CORRIGAN: Objection. The witness's prior answer made it clear that he was referring to the time that he was on the board, and his earlier testimony indicated that he was not familiar with any presentations that Dr. Blackman may have had at the time prior to that.

MS. WIVELL: I really object to your violation of the court's order.

MR. CORRIGAN: Well it's an improper question, so I object.

MS. WIVELL: Then say "objection."

MR. CORRIGAN: Please rephrase.

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MS. WIVELL: I object to your coaching. It's continued on this afternoon from this morning, and I think it's improper.

MR. BEZANSON: I object to that characterization for the record.

MR. CORRIGAN: Fine. You are not going to restrain me from stating my precise grounds. You're not allowed to do that. You are allowed to ask another question.

A. I thought I had already answered that Dr. Blackman never made any presentation to the board since I've been on the board.

Q. That you remember.

A. No, since I've been on the board.

Q. You've been to every board meeting.

A. Since 1988 I've been to every formal board meeting. I think I missed one board meeting, which was an emergency board meeting, and I was on holiday.

Q. Now sir, on the sixth page of Exhibit 502 it says "NEW STRATEGY;" correct?

A. Correct.

Q. And it says, "On balance, it is the opinion of this department that the analysis of advantages and disadvantages suggests that we should move to position B, namely, that we acknowledge, quote, the

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probability that smoking is harmful to a small percentage of heavy smokers," close quote. Did I read that correctly?

MR. CORRIGAN: You left out the word "now" in the third line, Ms. Wivell.

MS. WIVELL: Sorry.

A. Essentially, yes.

Q. All right. Sir, did anyone ever bring to the board the opinion of any one of the departments within any of the BAT Group companies that the group should change its position on smoking to acknowledge that smoking is harmful to some smokers?

MR. CORRIGAN: Objection.

A. I really wouldn't know the answer to that. I think, you know, this -- this is a letter dated -- or memo dated May 1980. In relation to this memo, I was in Souza Cruz at the time, so I clearly would not be in a position to know whether or not this particular proposal was put to the board or -- or to whoever it was put, if indeed it was put to anybody.

As to your wider question, if at any time, I really can't speak for the history of B.A.T. before the time I was on the board.

Q. Well today, speaking as the head of the board of B.A.T Industries -- I'm sorry. Strike that.

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Today, speaking as the chief executive officer of B.A.T Industries P.L.C., do you acknowledge that smoking does harm some people?

MR. CORRIGAN: Objection, asked and answered, but you can answer again.

A. No. I think I have said we acknowledge that smoking is a risk factor, but we do not know whether it causes disease or not. But it is a risk factor to be taken into account.

Q. Now after this memo was written in 1980, the BAT Group companies thereafter were reminded that it was important to understand the legal considerations involved in smoking-and-health issues; correct?

A. Well you look like you're reading from a document, so if you're doing that, it's quite likely. "I don't know" is the answer.

(Plaintiffs' Exhibit 503 was marked for identification.)

BY MS. WIVELL:

Q. Sir, showing you what's been marked as 503, this is a memo that states at the bottom "BAT Co Ltd - Minnesota Tobacco Litigation" and is Bates numbered 107620266; correct?

A. Correct.

Q. And it's on the stationery of British-American

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Tobacco Company Limited; right?

A. Correct.

Q. That's BATCO; isn't it?

A. Correct.

Q. Now it says right underneath this, by the way, "A member of the B.A.T Industries Group;" right?

A. Correct.

Q. And in fact, members of the group are entitled to use that heading on their letterhead; aren't they?

A. They're entitled but not obliged.

Q. Now sir, have you ever seen this document before?

A. No.

Q. Why don't you take a moment and read it.

A. Okay.

Q. All right. This document stresses the importance of understanding the legal considerations involved in the smoking-and-health issues; right?

MR. CORRIGAN: Object to the form of the question. This document doesn't stress.

A. It is clearly a note that was attached to this which addresses the importance of understanding the legal situation.

Q. And in fact it says, "Accordingly, the May 1981 note is being re-circulated under cover of a note

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issued by Mr. P. J. Ricketts, Legal Director of B.A.T. -- Legal Director of B.A.T Industries P.L.C., which stresses the importance of understanding the legal considerations involved in smoking and health issues having particular regard to the fate of the Manville Corporation in the USA;" correct?

A. That's what it says.

Q. All right. What do you understand the reference to the Manville Corporation to mean?

MR. CORRIGAN: Object to the form, asking a witness to speculate on --

MS. WIVELL: I object to your statements on the record in violation of the court's orders.

MR. CORRIGAN: That's --

MS. WIVELL: Please just state "objection."

MR. CORRIGAN: The objection was stated in accordance with the court order. I repeat it. It stands.

A. What do I understand?

Q. The reference to the Manville Corporation to mean.

A. I'm not sure that I know what the reference actually means.

Q. Okay. Have you ever seen the document which

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is -- what was attached to -- to this?
A. Well I've never seen this document, so I don't know whether I've seen the document that was attached to it. I think it's unlikely. As I say, it was a BATCO document. Since I was at Souza Cruz at the time, it's unlikely.
Q. Did B.A.T. -- oh, I'm sorry. At the time --
THE WITNESS: Could we take just a few minutes' break?
MS. WIVELL: Oh, certainly.
THE WITNESS: Thanks.
THE REPORTER: Off the record, please.
(Recess taken.)
BY MS. WIVELL:
Q. Sir, it has been recognized within the BAT Group companies that nothing must be done anywhere in the world which would jeopardize the causation defense which is asserted in smoking-and-health cases in the United States; isn't that true?
MR. BEZANSON: Object to the form.
A. Well I mean it seems to me a truism, that you wouldn't go out of your way to -- to do that.
Q. And hasn't the public statements that have been made by the various BAT Group members been tailored to assure that nothing was done to affect the

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causation defense which is asserted in smoking-and-health cases in the United States?

MR. CORRIGAN: Objection to the form.

A. Could you just repeat that slowly?

Q. Certainly.

Haven't the public statements that have been made by the various BAT Group member companies been tailored to assure that nothing was done to affect the causation defense that is asserted in the United States in smoking-and-health-related cases?

MR. CORRIGAN: Same objection.

A. Right, I think the public statements that have been made are -- formally by members, member companies of the BAT Group, have been do so on the basis of accuracy, first and foremost accuracy in terms of a review of the science. They would take into account, yes, the legal situation. It's -- it's not -- it is not something which is ignored in the process. But accuracy is actually, first and foremost, the important point.

Q. Well have any of the BAT Group members conceded publicly that the majority of medical opinion about the relationship of smoking and disease was -- was contrary to the position that they take?

MR. CORRIGAN: Object to the form.

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Source: http://www.industrydocuments.ucsf.edu/docs/qpxd0001

A. Well I -- I can't particularly refer you, I think, to any specific document, but certainly it's well recognized within the company and -- and not disputed by the company that a lot of people have an alternative view. Science is controversial. We've always taken the view -- correction. That would be an assumption.

We've long taken the view that there is a lot of epidemiological evidence which itself raises the question, generates the view there are risk factors involved. We don't deny, to the best of my knowledge. We certainly don't deny that a lot of doctors go further than that.

Q. I understand that that's recognized within the company. My question is: Can you direct me to any public statement by any one of the BAT Group members that tells the average smoker, you know, the position we have taken that smoking is not causally connected with cigarette -- with disease, that the majority of the medical opinion is to the contrary?

MR. CORRIGAN: Object to the form of the question.

A. I think if you think about that logically, my role is as chief executive officer of a holding company. A holding company by invests in lots of

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different businesses, but nevertheless is a holding company. That my background is in finance. And I've only been chief executive officer since April 1993.

There could well have been any number of documents issued by various member -- member companies in the group, I'm sure there have been lots of documents issued which I don't know about, and I think you've seen that -- evidence of that today. Can I refer you to a specific document? No, I can't. But then I wouldn't expect to be able to.

Q. Okay. That last document we had out, do you have it, sir? That's Exhibit --

MR. CORRIGAN: 503.

Q. -- 503; right, sir?

A. Yes.

Q. And it refers to the holding companies -- it -- it refers to an employee of the holding company; correct?

A. Correct. It refers to Mr. Pascal Ricketts, legal director of B.A.T Industries.

Q. And what was Mr. Ricketts doing, at least according to this memo?

A. It says sending out a note.

Q. A note reminding everybody in the BAT Group of the legal considerations that were in effect

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concerning smoking and health; right?

MR. CORRIGAN: Well let me just object to the form. According to the document, Ricketts is circulating a note issued by Morini, a BATCO employee.

MS. WIVELL: Let me restate the question.

Q. At least according to this exhibit, Mr. Ricketts was circulating a memo with regard to the legal implications of the smoking-and-health issue; right?

A. That's right. But I'm sure I --

I really have to say I didn't understand the relevance of that to the question you'd asked.

Q. Okay. Well let -- let me go back and re-ask that question again. It would be fair to say, wouldn't it, sir, that despite the fact that you've been on the BATCO -- I'm sorry.

It would be fair to say that, despite the fact that you have been on the B.A.T Industries board for coming on now 10 years, you can't direct me to any statement by any BAT Group member that acknowledges that the majority of medical opinion judges the relationship between smoking and disease to be a causal one; can you?

MR. CORRIGAN: Object, asked and answered. And he gave you the reasons.

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A. I reconfirm my previous answer.
Q. You -- you can't direct me to anything; can you?
A. No, I reconfirmed that I can't, and neither would I expect to be able to.
Q. You said you could not. I'm sorry --
A. I said -- I said I cannot direct you to any particular document.

(Plaintiffs' Exhibit 504 was marked for identification.)

BY MS. WIVELL:
Q. Sir, showing you what's been marked as Plaintiffs' Exhibit 504, this is a document entitled "SMOKING AND HEALTH: THE BACKGROUND AND CLIMATE;" correct?
A. Correct.
Q. It's dated February 28th, 1985; right?
A. Yes.
Q. All right. Have you ever seen this document before?
A. No.
Q. For the record, it starts with Bates number 107319216; correct?
A. Yes.
Q. Would you like to take a moment and read this document?

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A. Please.

MS. WIVELL: Certainly. We can go off the record.

THE REPORTER: Off the record, please.

(Discussion off the record.)

BY MS. WIVELL:

Q. Sir, you've had the opportunity to read Exhibit 504; right?

A. Yes, I have.

Q. Now this document reiterates that the -- the BAT Group must continue to exercise care to ensure that nothing is said or done inadvertently anywhere in the world that could jeopardize the causation defense that's asserted in smoking-and-health cases in the United States; right?

A. That is one of the points it makes, but it's hardly the -- the most important point there.

Q. But it is a point that's made on page two of the document; right?

A. Yeah, it is one of the points that's made, yes.

Q. And there it says, quote, "We must continue to exercise care to ensure that nothing is said or done inadvertently anywhere in the world which could jeopardise either of these defences;" right?

A. Yeah.

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Q. And the two defenses that are listed are lack of proof of causation first.

A. Yes. Yes.

Q. And the second is voluntary assumption of the risk, which involves the plaintiff having been aware of the potential risks involved in smoking; right?

A. Yes.

Q. All right. Well let me ask you this: Down below it says at the bottom of the page, "However, whilst the majority of medical opinion judge the relationship between smoking and various diseases to be causal, we believe there is an opportunity to suggest to opinion makers that open-mindedness should be reserved on the issues and that some recent scientific developments questioned, to varying extents, the judgement that smoking is the major cause of a number of diseases." Did I read it correctly?

A. You did.

Q. All right. Well, in making sure that the smoker was aware of the potential risks involved in smoking, did B.A.T Industries or any of the other BAT Group companies make the smokers aware that the majority of medical opinion was that smoking caused disease?

MR. CORRIGAN: Objection, question

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misconstrues the language of the document.
A. I thought I'd already answered the question anyway.
Q. Sir, I'd like an answer to my question. Let me rephrase it.
Document aside, in making sure that the smoker was aware of the potential risks involved in smoking, did B.A.T Industries make smokers aware that the majority of medical opinion was that smoking caused disease?
MR. CORRIGAN: Objection. B.A.T Industries does not sell or market cigarettes.
A. B.A.T Industries doesn't communicate with smokers in that sense. Okay? Okay?
Q. Well you made a public statement about smoking and health and research last year; didn't you, sir?
A. To a bunch of journalists.
Q. Yes. And when you made that statement, you expected that that statement would be placed in medical articles that would appear in the United States; right?
MR. CORRIGAN: Objection. There's no basis for suggesting that he expected it be in medical articles.
MS. WIVELL: Oh, I'm sorry. If I stated

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that, let me rephrase the question.

Q. And when you made that statement, you expected that it would be placed in newspaper articles that would appear in the United States; right?

MR. CORRIGAN: Object to the form.

A. No, not particularly.

Q. Well, you understood that there were reporters for the various news wires present when you made that statement.

A. It was a statement made in the U.K.

Q. To a variety of reporters; correct?

A. To a variety of reporters. Yes.

Q. Including those for the international news wires; right?

A. It was also a statement made in connection with a results presentation, which I think was evident from that statement. It was a statement that was made over -- as one small phrase over an hour long of discussion. What one finds is you make lots of statements at these meetings; very few of them get reported.

Q. Move to strike as non-responsive.

Sir, those reporters included reporters for international news wires; didn't they, sir?

A. Sorry. I thought I was answering the question

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"expected it to be reported."

I don't know who was there, actually. I can't recall the list of people who was there.

Q. But from time to time you and others on behalf of B.A.T Industries had made statements like that relating to smoking-and-health issues; haven't you?

A. Yes.

Q. Yes.

And have you ever told reporters, in an attempt to assure that people smoking cigarettes manufactured and sold by the BAT Group members, that the relationship -- I'm sorry -- that the majority of the medical opinion judges the relationship between smoking and diseases to be a causal one?

MR. CORRIGAN: Object to the form.

A. I'm not trying to be evasive here, but every cigarette pack on sale in the U.S., for example, carries the U.S. Surgeon General's warning. That is a direct message being made to consumers of the product, also, I suppose, to consumers who -- non-consumers of the product who might come in contact with the product.

Now I think the -- the issue which is in question here which you referred to was the voluntary assumption of risk which involved the plaintiff

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having been made aware of the potential risks involved in smoking. I think every pack helps make the smokers, the consumers, aware of the potential risks involved in smoking. Having done that, the key element of getting the message across, I think, has been achieved.

How much further one goes, what specific words one uses, how many people have one opinion or how many people have another opinion doesn't seem to me to be greatly helpful to the consumer. The fact that there is a risk involved has been made clear to him. I'm not sure what purpose is achieved by stating that there may be majority of one opinion as distinct from another.

Q. Move to strike as non-responsive.

My question is simply this, sir: Have you at any time in making public statements relating to smoking and health, in your position as the head of B.A.T Industries, ever acknowledged that the majority of the medical opinion concerning the subject of smoking and health was contrary to the position that your company has taken?

MR. CORRIGAN: Object to the form.

A. I can't -- I can't actually remember. Quite possibly, but I can't remember.

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Source: http://www.industrydocuments.ucsf.edu/docs/qpxd0001

Q. But you -- you specifically can't direct me to a situation as you sit here today.
A. I can't direct you to any.
Q. Okay.
A. I can't direct you to anywhere. I certainly can't direct you to anywhere I've denied it either.
Q. All right. Well have you ever seen any statement by any of the BAT Group companies that informed people smoking their cigarettes that the relationship between smoking and disease was directly causal?
MR. CORRIGAN: Objection, that's been asked and answered at least twice now.
A. I clearly recall having informed you that I cannot direct you to any document to that effect.
Q. Can you recall hearing any public statement by anyone from the BAT Group that told smokers that the majority of medical opinion judged the relationship between smoking and various diseases to be causal?
MR. CORRIGAN: Objection, asked and answered several times.
A. I'm trying to picture a scene where I'm -- where I'd see people from members of the industry talking directly to smokers. I'm sure that's the question.
I can't think of any.

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Q. Well you've been interviewed on TV from time to time; right?

A. Yes.

Q. All right. And others from the BAT Group are interviewed on the issue of smoking and health from time to time on TV; right?

A. Correct.

Q. All right. And in fact, Mr. -- or Dr. Green went on British television and told smokers that there was a direct causal link between smoking and lung cancer; correct?

MR. CORRIGAN: Objection. Not an employee of B.A.T. at the time.

A. Did he?

Q. You're unaware of that?

A. I haven't seen the program.

Q. All right. You're aware that British-American Tobacco denied that there was a causal connection after Dr. Green went on television here in Britain and said that there was.

MR. CORRIGAN: Objection. The witness has said several times what the position of the company is on causation.

A. I think I've made it very clear what our position; that is, B.A.T Industries' position is.

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Source: http://www.industrydocuments.ucsf.edu/docs/qpxd0001

And the position of the BAT Group of companies takes the view -- for the sake of repetition, let me say it one more time -- takes the view that there has been no scientific proof of causation.

Q. Move to strike as non-responsive.

Are you aware that British-American Tobacco denied that there was a causal connection between cigarette smoking and lung cancer after Dr. Green went on television here in Great Britain and said that there was?

MR. CORRIGAN: Same objection as previously stated.

A. I am not aware that British-American Tobacco said anything at all, whether they confirmed/denied the statement or made any reference or any response, I didn't see the program. I really don't know anything about it.

Q. No one's ever brought that to your attention; is that right?

MR. CORRIGAN: Objection.

A. What, British-American Tobacco's denial?

Q. Yes.

A. If they did make such a denial. Can --

Yeah, I don't -- I don't know what period of time we're talking about, but I -- I find it,

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depending on when we're talking about, not especially likely that they would have brought it to my attention.

MS. WIVELL: Mr. Stirewalt, could you get out that pack of Terrytons you have?

THE REPORTER: I would, but I have none.

(Discussion off the stenographic record.)

BY MS. WIVELL:

Q. Sir, I'm going to show you what's been marked as Plaintiffs' Exhibit 173 in this litigation. It's a pack of GPC cigarettes; right?

A. Correct.

Q. GPC is a brand that's marked by BAT Group member Brown & Williamson in the United States; right?

A. Correct.

Q. Now it contains a statement on the side of the pack that's mandated by the Surgeon General; right?

A. Correct.

MR. BEZANSON: Object to the form.

Q. Now before the Surgeon General and Congress required the cigarette companies to place that warning on Exhibit 173, the packages of cigarettes which were sold by the BAT Group didn't contain a warning; did they?

A. I think that's correct.

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Q. And as a matter of fact, the companies in the United States, the cigarette companies, opposed placing such a warning on the cigarette packages; right?

MR. CORRIGAN: Objection, no foundation for this witness's knowledge.

A. We're talking about really quite a long time ago. I think we're talking about before I -- long before I joined the company. Obviously, what the discussion was at the time, I'm not aware.

Q. You just don't know one way or the other then; right?

MR. CORRIGAN: Objection, he's already answered that.

A. Correct.

Q. Would you read that warning that's on the pack of Exhibit 173.

A. "SURGEON GENERAL'S WARNING: Smoking By Pregnant Women May Result in Fetal Injury, Premature Birth, And Low Birth Weight."

Q. All right. Does B.A.T Industries agree with the Surgeon General's warning?

MR. CORRIGAN: Object to the form.

A. Do we agree with his right to put a warning on there? Do we agree with the contents of the warning?

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Q. I'm asking does B.A.T Industries agree with the content of that warning.

MR. CORRIGAN: Same objection.

A. The position of B.A.T Industries and the member companies in the group are that we have no objection -- it may have been different many, many years ago, I don't know as I said -- we have no objection whatsoever and indeed support the use of warnings on the packs. We think it's normally appropriate for them to be attributed, and I think it's helpful for the public to see who is warning them. If it's the U.S. Surgeon General, for example, in the U.S., that seems to be helpful to the public to know it's the U.S. Surgeon General who's making the warning.

As to the specific content of any particular warning, we have an open mind. We do not see that the -- there is conclusive evidence to that effect, but it may or may not be true.

Q. You -- you just don't know one way or the other; is that right?

MR. CORRIGAN: Well I think that's a mischaracterization of what he just said.

A. We accept --

It's the same for many of the warnings. We

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accept that there is a lot of epidemiological evidence to support various of these warnings, as a result of which it is part of the bringing to the attention of the consumer the risk factors involved, risk factors as evidenced by the statistical epidemiological evidence. As to whether scientifically it is true or not, we believe that still to be an open question. But it's still better they're advised to that effect because it may be true.

Q. Sir, showing you what's been marked as Exhibit 253, would you read the warning on the side of that pack of Marlboros?

A. "SURGEON GENERAL'S WARNING: Smoking Causes Lung Cancer, Heart Disease, Emphysema" -- let me pronounce that again -- "Emphysema, And May Complicate Pregnancy."

Q. All right. Sir, that warning doesn't mention anything about risk factors; does it?

A. Doesn't seem to me that it needs to.

Q. Doesn't mention anything about epidemiology; does it?

MR. CORRIGAN: Object to the form and the tone.

A. No.

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MR. CORRIGAN: There was no suggestion by the witness that -- that it did.

MS. WIVELL: I'm sorry.

A. No, it doesn't.

Q. And does British-American -- I'm sorry. Strike that.

Does B.A.T Industries agree with what's written on the side of Exhibit --

MS. WIVELL: Is it 233?

MR. CORRIGAN: 253.

THE WITNESS: 253.

Q. I'm sorry, let me restate the question.

Does B.A.T Industries agree with what's written on the side of Exhibit 253?

MR. CORRIGAN: Objection, the same as previously.

A. Quite happy to repeat the answer again if you -- if you'd like me to.

Q. This is a different question. So let --

MR. CORRIGAN: The witness has said in his earlier answer that he was talking about all warnings.

MS. WIVELL: If you have an objection, please state the word "objection."

MR. CORRIGAN: All right. But you're

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misconstruing the witness's prior answer. I must protect the answer; you're not being fair to him.

A. I thought I had answered this question in answering the last question. I'm quite happy to answer it again in exactly the same way, but the question -- the answer I gave to the previous warning stood for all of the warnings. I wasn't making it specific to the specific warning you showed me before.

Q. All right.

A. But I'm perfectly happy to make it again if you'd like.

Q. I would -- I would like you to specifically address the warning that is there.

A. In specifically addressing this warning, and at the same time I'll go further and specifically address other warnings, but for this purpose, this warning, we have no objection whatsoever to the Surgeon General requiring the warning to be on there. We believe that it is appropriate for the smokers to be aware at least there is a risk of that. If he wishes to go further, that's fine by us. That's his prerogative.

We believe that there is epidemiological evidence to support this contention. We -- as I have

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said before, we do not believe that there is scientific proof that makes it conclusive.

Q. Do you believe that your company is better equipped than the Surgeon General of the United States to determine whether cigarette smoking causes lung cancer?

MR. CORRIGAN: Object to the form of the question.

A. I do not believe that B.A.T Industries is better equipped than the U.S. Surgeon General, since we have no scientists working at the company at all.

Q. All right. Well is British-American Tobacco Company better equipped than the Surgeon General of the United States to determine whether or not cigarette smoking causes disease?

MR. CORRIGAN: Objection, same grounds.

A. I don't know. It seems to me, as I've said on a number of occasions now, that this is an area of valid scientific debate. There are different views between different scientists, all of them well-qualified scientists, but nevertheless perfectly validly-held different views.

Q. Move to strike as non-responsive.

My question is this, sir: Is British-American Tobacco Company better equipped than the Surgeon

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General of the United States to determine whether or not cigarette smoking causes disease?

MR. CORRIGAN: Same objection.

A. If you con --

MR. CORRIGAN: The witness has answered that question.

A. If you consider my last answer non-responsive, which I find difficult to understand, I'm going to have to say "I don't know" in that case, because I don't know why you consider the last answer non-responsive.

Q. Is Brown & Williamson in a better position than the Surgeon General of the United States to determine whether cigarette smoking causes disease?

MR. CORRIGAN: Same objection.

A. I had thought, obviously erroneously, that I was answering for the tobacco subsidiaries within the BAT Group, so same answer applies to Brown & Williamson.

MS. WIVELL: Why don't we stop for the day.

THE REPORTER: Off the record, please.

(Deposition recessed at 5:34 o'clock p.m.)

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C E R T I F I C A T E

I, Richard G. Stirewalt, hereby certify that I am qualified as a verbatim shorthand reporter; that I took in stenographic shorthand the testimony of MARTIN F. BROUGHTON at the time and place aforesaid; and that the foregoing transcript consisting of pages 1 through 244 is a true and correct, full and complete transcription of said shorthand notes, to the best of my ability.

Dated at London, England, this 23rd day of July, 1997.

RICHARD G. STIREWALT
Registered Professional Reporter
Notary Public

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C E R T I F I C A T E

I, MARTIN F. BROUGHTON, the deponent, hereby certify that I have read the foregoing transcript consisting of pages 1 through 244, and that said transcript is a true and correct, full and complete transcription of my deposition except:

MARTIN F. BROUGHTON
Deponent

Sworn and subscribed to before me this day of , 1997.

Notary Public

My commission expires .

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